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

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सं. 34] नई दिल्ली, अगस्त 30—सितम्बर 5, 2026, शनिवार/ भाद्र 8—भाद्र 14, 1948
No. 34] NEW DELHI, AUGUST 30— SEPTEMBER 5, 2026, SATURDAY/ BHADRA 8— BHADRA 14, 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)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 25 अगस्त, 2026

का.आ. 1952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, चेन्नई के पंचाट (सन्दर्भ संख्या 6/2023) को प्रकाशित करती है,

[सं. एल-22013/01/2026-आई.आर.(सीएम- II)]

जयदीप यादव, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th August, 2026

S.O. 1952.—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.6/2023) of the Central Government Industrial Tribunal-cum-Labour Court, CHANNAI as shown in the Annexure, in the industrial dispute between the Management of Food Corporations of India and their workmen.

[No. L-22013/01/2026-IR(CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 6/2023

Present: SUSHIL KUMAR, PRESIDING OFFICER

Date: 17-07-2026

Sh. H. Krishnarajan,
No.141/2, Mettur Street,
Vivekanandan Salai,
No.89, Veppampattu,
Thiruvallur – 602 024. : 1st Party/Petitioner

AND

The General Manager,
Tamilnadu Region,
Food Corporation of India,
No.8, Mayor Sathyamoorthy Road,
Chetpet,
Chennai – 600 031. : 2nd Party / Respondent

Appearance:

For the 1st Party/Petitioner : None

For the 2nd Party / Respondent : M/s Imthias, Adv

AWARD

The Central Government, Ministry of Labour& Employment vide its Order No. 8/56/2022-B3/Adj/A1, dated 23.02.2023 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the Order No.E-1/37(10)/2006 dated 26.08.2019 of Food Corporation of India, Chennai, Cancelling the Appointment of Shri H. Kirshnarajan is legal, valid and justified?"

ID 6/2023

2. On receipt of the above reference dated 23.02.2023 from the appropriate Government, the dispute was registered as ID No. 6/2023 and due notices were issued to both the parties for their appearance fixing the case to 02.05.2023. Neither the Petitioner nor any Counsel / Authorized Representative turned up resulting further adjournments to 03.07.2023, 01.08.2023, 14.07.2025, 01.09.2025, 28.10.2025, 19.01.2026, 07.04.2026 and 25.05.2026. The Petitioner did not turn up. It reveals from the body of reference that while the appropriate Govt. sent the reference dated 23.02.2023 to this Tribunal for adjudication, copies of the reference were sent to the Petitioner and all the opposite parties. It is therefore well presumed that both parties must have received the reference. Even then, in the interest of justice, the Petitioner was once again directed to appear and to file claim statement fixing the case to

17.07.2026. The Petitioner did not turn up nor was any authorized representative of the counsel on his behalf present. The claim statement was not furnished in any manner by the Petitioner. It reveals the Petitioner, despite of sufficient opportunity choose not to appear or to file claim statement and documents.

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

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

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

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 1953.—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 69/2001)** को प्रकाशित करती है,

[सं. एल-12012/505/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1953.—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. 69/2001) 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,

[No. L-12012/505/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 69/2001

Between:

Sri G. Sudhakara Rao,

S/o Potaraju,

Pedapudi Kuchipudi Centre,

(PO) Morra(M),

Krishna Dist. – 521366. … Petitioner

And

The Asst. General Manager,
State Bank of India,
Zonal Office, Region-II,
Labbipet,
Vijayawada -520 003. …..Respondent

Appearances:

For the Petitioner : Sri Macharla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/505/2000-IR(B.I) dated 19.06.2001, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing the services of Sri G. Sudhakara Rao, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 69/2001 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 25 अगस्त, 2026

का.आ. 1954.—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** 68/2001) को प्रकाशित करती है,

[सं. एल-12012/504/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1954.—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. 68/2001) 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,

[No. L-12012/504/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 68/2001

Between:

Sri S. Koteswara Rao,

S/o Chintaiah,

Yeddanapudi,

Kuchipudi Movva(M),

Krishna dist. -521236 … Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office, Region II,

Labbipet,

Vijayawada -520 001.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/504/2000-IR(B.I) dated 19.6.2001, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing the services of Sri S. Koteswara Rao, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 68/2001 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 25 अगस्त, 2026

का.आ. 1955.—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** 214/2001) को प्रकाशित करती है,

[सं. एल-12012/96/2001-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1955.—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. 214/2001) 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,

[No. L-12012/96/2001–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 214/2001

Between:

Sri M.N. Nanchariah,

VEnkataratnam,

Radio Centre,

D.No.32-1261, Bandar Kota,

Machilipatnam,

Krishna Dist … Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office, Region II,

Labbipet,

Vijayawada -520 001.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/96/2001-IR(B.I) dated 7.09.2001, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing the services of Sri M.N. Nanchariah, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 214/2001 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 25 अगस्त, 2026

का.आ. 1956.—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** 210/2002) को प्रकाशित करती है,

[सं. एल-12012/379/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1956.—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. 210/2002) 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,

[No. L-12012/379/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 210/2002

Between:

Sri N.V. Balakrishna Rao,

S/o N. Pullaya,

Kothepet, Gannavaram,

Krishna Dist.-521101.

… Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office, Region II,

Vijayawada -520 001.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/379/2000-IR(B.I) dated 13.02.2002, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Tirupathi Zone in dismissing the services of Sri N.V. Balakrishana Rao, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 210/2002 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 25 अगस्त, 2026

का.आ. 1957.—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** 122/2001) को प्रकाशित करती है,

[सं. एल-12012/303/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1957.—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. 122/2001) 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,

[No. L-12012/303/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 122/2001

Between:

Sri K. Subramanyam,

S/o K. Mogilaiah,

Korivaripalli,

KK Satram(PO),

Bangorupalayam(M),

Chitoor Distt. … Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office, Region II,

Tirupathi- 517501.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri K. Ratanga pani Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/303/2000-IR(B.I) dated 24.04.2001, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Tirupathi Zone in dismissing the services of Sri K. Subramanyam, Ex-Temporary Messenger by way of oral orders w.e.f 31.03.1997 is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 122/2001 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 25 अगस्त, 2026

का.आ. 1958.—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** 67/2001) को प्रकाशित करती है,

[सं. एल-12012/503/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1958.—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. 67/2001) 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,

[No. L-12012/503/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of February, 2026

INDUSTRIAL DISPUTE No. 67/2001

Between:

Sri K. Krishna Rao,

S/o Rama Kotaiaha,

R/o Near Ravi Vidya Niketan,

Tiruvuru,

Krishna dist. -521235 … Petitioner

And

The Asst. General Manager,

State Bank of India,

Zonal Office, Region II,

Labbipet,

Vijayawada -520 001.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Matter placed today before Tribunal for order. perused the record. This industrial dispute was received from Government of India, Ministry of Labour by its order No. L-12012/503/2000-IR(B.I) dated 19.6.2001, which has been referred under section 10(1)(d) of the I.D. Act, 1947 for adjudication with the following terms:-

SCHEDULE

"Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing the services of Sri K. Krishna Rao, Ex-Messenger, is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 67/2001 and notices were issued to both the Workman and the management.

2. The perusal of the claim statement filed by the Petitioner as well as the counter of the Respondent goes to reveal that this matter pertains to the termination of the Petitioner from service by the Respondent. The Appropriate government has not referred any industrial dispute to this Tribunal for adjudication in respect of termination of Petitioner.

Section 10 (4) provides:-

"*10(4):-Where in an order referring an industrial dispute to [a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto."*

Thus, in view of the above provision the Industrial Tribunal cannot decide a dispute not explicitly referred to it by the appropriate Government as it's jurisdiction under Section 10 (4) of ID Act, 1947 is confined to the specific point of dispute mentioned in the reference order and matter incidental there to. If the reference is for dismissal but the matter pertains to the termination, the Tribunal must strictly stick to the referred terms.

3. Therefore, in view of the provision contained under Section 10(4) of the I.D.Act, 1947, there is no reference of the industrial dispute regarding termination of the Petitioner for adjudication before this Tribunal. The reference of dispute herein pertain to the dismissal of the Petitioner from service. Therefore, this Tribunal cannot adjudicate the dispute in the absence of reference of termination by retrenchment of Petitioner. Thus, 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 6th 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, 27 अगस्त, 2026

का.आ. 1959.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (02/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-203]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 02/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-203]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-02 OF 2012

Mr. Rajubhai D. Solanki

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar (Adv.)

For the Opponent : Mr. B.K. Ashok (Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mr. Rajubhai D. Solanki (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mr. Rajubhai D. Solanki under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1960.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (03/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-204]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-204]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-03 OF 2012

Mr. Pankaj Ramesh Purbiya

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar (Adv.)

For the Opponent : Mr. B.K. Ashok (Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mr. Pankaj Ramesh Purbiya (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mr. Pankaj Ramesh Purbiya under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1961.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (04/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-205]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 04/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-205]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-04 OF 2012

Mr. Dipesh Gopal Solanki

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar (Adv.)

For the Opponent : Mr. B.K. Ashok (Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mr. Dipesh Gopal Solanki (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mr. Dipesh Gopal Solanki under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1962.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (05/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-206]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 05/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-206]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-05 OF 2012

Mrs Padma Jayesh Waghela

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar(Adv.)

For the Opponent : Mr. B.K. Ashok(Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mrs Padma Jayesh Waghela (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mrs Padma Jayesh Waghela under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1963.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (06/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-207]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-207]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-06 OF 2012

Mrs Malatibai Gopal Solanki

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar(Adv.)

For the Opponent : Mr. B.K. Ashok(Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mrs Malatibai Gopal Solanki (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon’ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mrs Malatibai Gopal Solanki under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1964.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (07/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-208]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-208]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-07 OF 2012

Mrs Kailash Roshanlal Kandara

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar(Adv.)

For the Opponent : Mr. B.K. Ashok(Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mrs Kailash Roshanlal Kandara (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mrs Kailash Roshanlal Kandara under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1965.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-1, के पंचाट (13/2012) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-209]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 13/2012*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Mumbai -1* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-12025/01/2026–IR (B-I)-209]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, MUMBAI.

PRESENT

JUSTICE ARVIND KUMAR MISHRA

PRESIDING OFFICER

APPLICATION CGIT-13 OF 2012

Mr. Jayesh S. Waghela

V/s.

Western Railway

Appearance:

For the Applicant : Mr. A.D. Nimbalkar(Adv.)

For the Opponent : Mr. B.K. Ashok(Adv.)

Mumbai, dated 06/02/2026

AWARD

The present Industrial Dispute has been raised by Mr. Jayesh Sanabhai Waghela (hereinafter referred to as *the Workman*) under Section 2-A of the Industrial Disputes Act, 1947, claiming that he was appointed as a daily wager/labourer by Western Railway through the then Station Master Shri L. P. Gupta for cleaning work at Virar Railway Station and that he was illegally terminated on 04.10.2008.

It is the case of the Workman that though the agreed wages were Rs. 3,000/- per month, he was actually paid Rs. 1,200/- in cash by the Station Master. The Workman claims that he was a regular employee of the Railway Department and seeks reinstatement with back wages and permanency.

Per contra, the Management has specifically denied the existence of any employer–employee relationship and contended that the Station Master had no authority to appoint, and that the Workman was never on the rolls of Western Railway.

On appreciation of evidence, it is an admitted position that:

- No appointment letter was issued to the Workman;
- No written order of engagement was produced;
- No termination letter was issued;
- No muster roll, attendance register, wage slip, pay bill, PF, ESI, or service record has been produced;
- The Workman has categorically admitted that he has no documentary proof to show that he worked for 240 days or more in any calendar year.

Though the Workman relied upon certain xerox copies of letters, identity card, and vouchers, the same do not conclusively establish that the Workman was appointed by Western Railway as its employee on a monthly salary of Rs. 3,000/-. Mere marking of documents or reliance on photocopies, without corroborative primary records maintained by the employer, cannot by itself prove an employer–employee relationship.

The contention of the Workman that work allotment by Railway officials itself proves employment is not legally sustainable. It is well settled that control over work or supervision alone is not decisive, unless supported by evidence of appointment, payment of wages, and inclusion in establishment records.

Further, the evidence on record indicates that the Workman was engaged through a contractor, who has not been impleaded in the present proceedings. In the absence of the contractor, the claim suffers from non-joinder of a necessary party, which goes to the root of the matter.

The Hon'ble Supreme Court has consistently held that:

- The burden of proving employer–employee relationship lies on the Workman;
- Completion of 240 days must be proved by cogent evidence;
- Courts cannot grant reinstatement or permanency based on sympathy or conjecture.

The law laid down in *Range Forest Officer v. S.T. Hadimani*, *Bharat Heavy Electricals Ltd. v. Mahendra Prasad Jakhmola*, *Workmen of Nilgiri Coop. Society Ltd. v. State of Tamil Nadu*, and reiterated in later judgments, squarely applies to the present case.

In the absence of proof of employment, the question of illegal termination, violation of Section 25-F, or grant of reinstatement with back wages does not arise. Equally, the prayer for absorption and permanency is untenable in law.

The Workman has thus failed to discharge the initial burden of proof, and this Tribunal finds no illegality or unfair labour practice on the part of the Management.

AWARD

The Application filed by the Applicant–Workman Mr. Jayesh Sanabhai Waghela under Section 2-A of the Industrial Disputes Act, 1947 is dismissed.

The Workman is not entitled to reinstatement, continuity of service, back wages, permanency, or any other relief as claimed.

No order as to costs.

JUSTICE ARVIND KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1966.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेन्नई पोर्ट ट्रस्ट के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (24/2021) प्रकाशित करती है।

[सं. एल-33011/01/2021-आई.आर.(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.24/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Chennai Port Trust and their workmen.

[No. L-33011/01/2021–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT

CHENNAI

ID No. 24/2021

Present: SUSHIL KUMAR, PRESIDING OFFICER

Date: 03-08-2026

The General Secretary,

The Madras Port and Dock Labour Union,

No.1/675, 1st Street,

Muthamizh Nagar,

Chennai (Tamil Nadu)- 600 118. : 1st Party/Petitioner

AND

The Chairman,

Chennai Port Trust,

Chennai (Tamil Nadu)- 600 001. : 2nd Party / Respondent

Appearance:

For the 1st Party/Petitioner : M/s Samantha & Ston, Adv

For the 2nd Party / Respondent : M/s M.R. Dharanichander, Adv

AWARD

The Central Government, Ministry of Labour& Employment vide its Order No. L-33011/01/2021-IR(B-II) dated 09.07.2021 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the act of the Management of Chennai Port Trust imposing the penalty on Shri S. Devaraj, Sergeant is Victimization / unfair labour practice? If so, what relief the workman is entitled to?

The claim and counter were filed by the respective parties. The case was listed for the filling proof affidavit of WW1 on 03.04.2023, but neither the petitioner nor any Counsel / Authorized Representative turned up, resulting in further adjournments up to 03.08.2026.

On going through the order sheets as discussed above, it is crystal clear that despite of sufficient opportunities though made in favour of the Petitioner, there has been no progress in the proceeding was noticed for a substantial period almost approaching 3 years. Since the Petitioner chose not ready to give evidence or file a proof affidavit and hereby withheld to come to dock to prove his case. This necessarily seeks the Petitioner has got no interest to proceed with the case. Accordingly, the case was reserved for Final Order as liable for dismissal for default.

In the fact and circumstance, it is held that that there exists, no dispute for adjudication in consonance to the reference.

In the result, the case stands dismissed for default.

An Award is passed accordingly.

SUSHIL KUMAR-II, Presiding Officer

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1967.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (33/2021) प्रकाशित करती है।

[सं. एल-39025/01/2026-आई.आर.(बी- II)-105]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 33/2021*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen.

[No. L-39025/01/2026–IR (B-II)-105]

SALONI, Dy. Director

ANNEXURE

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

Date: 03-08-2026

Present: SUSHIL KUMAR-II,

PRESIDING OFFICER

I.D. No.33/2021

BETWEEN

Shri B.Balamurugan,
S/o. late C.Balakrishnan,
Roll No.46705, Messenger,
Indian Overseas Bank,
Salai-Fairlands Branch,
#35/15, Big Well Street,
Ammapettai, Salem-636 003. : 1st Party/Petitioner

AND

1. **The Chairman**,
Indian Overseas Bank
Industrial Development Department,
Central Office, P B No.3765
763, Anna Salai
Chennai-600 002.
2. The General Manager,
Industrial Development Department,
Central Office, P B No.3765
763, Anna Salai
Chennai-600 002. : 2n Party/Respondent

Appearance:

For the 1st Party/ Petitioner : M/s. Kempraj, Advocates

For the 2nd Party/Respondent : M/s. N.G.R. Prasad, Advocates

:

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This is a claim petition filed by the Petitioner u/s.2A(2) of the Industrial Disputes Act, 1947 directly seeking the following relief:-

(i) To set aside the termination order passed by Respondent Bank dated 21.03.2014.

Facts of the case:-

2. As per claim, the Petitioner was working as messenger in Salai–Fairlands branch of the Respondent Bank from 25.01.2011 to 30.06.2011. Subsequently, the Petitioner was transferred to work as messenger in Odapalli branch, Salem for four moths i.e, till July, 2011 under the direction of the Branch Manager. It is stated that the Petitioner again worked at Fairlands branch, Salem during August, 2011 and therefore, the Petitioner was in continuous service.

3. It is further stated that the Petitioner was given appointment order on 02.08.2011. It is seen from the internal communication dated 30.03.2011, wherein the Chief Manager of Fairlands branch had informed the Regional Office, Salem that they have enclosed Annexure A along with certificate of the Manager for perusal of the Respondent Bank. As per the Branch Head, the Petitioner was engaged as temporary messenger in Fairlands branch since 18.09.2005. It is submitted that the Petitioner was given confirmation order dated 02.02.2012 on completion of his probation period as temporary messenger for six months. The service of the Petitioner was terminated on the following aspects:-

"On verification of our Fairlands Branch records, it is found that you had worked from 25.01.2011 to 30.03.2011 only as temporary messenger. Hence, it has been confirmed that the application in Annexure-A dated 30.03.2011 submitted by you to the bank, wherein you have declared that you were working from 18.09.2005 to 30.03.2011 is not genuine and it is false.

In the undertaking letter dated 30.03.2011 clause (d), you had given a declaration as follows:-

"Subsequent to my absorption in Bank's Service, if it is found that declaration made by me regarding the period of engagement is found to be false or any of the documents submitted by me in support of age, qualification, caste, etc., is found to be bogus, I will be liable to be terminated from the Bank's Service"

As per clause 2 of the appointment order dated 01.08.2011, issued to you and accepted by you:

"Your services are liable to be terminated, if your work and conduct are found unsatisfactory, any material information is suppressed by you, the Certificates submitted by you are found to be not genuine, false, forged or tempered with by giving one month's notice or on payment of a month's pay and allowances in lieu of notice"

4. The Petitioner further submitted that he never declared with regard to his engagement of service from the year 2005. The Petitioner alleged that it was the Manager who wrongly mentioned in the service certificate that Petitioner was working from 18.09.2005, without verifying the records. The Petitioner further alleged that his signature was fraudulently obtained by the bank officials in Annexure A. The Petitioner also stated that he could not even read, write, speak or understand in English. The charges that the Petitioner had declared false information with regard to service his certificate as 18.09.2005 is denied as the same has been done without the knowledge or consent of the Petitioner. The Petitioner preferred an appeal on 25.04.2014 before the Chairman of the Respondent Bank. The Petitioner subsequently filed a Writ Petition No.14855 of 2014 before the Hon'ble High Court of Madras . The Hon'ble Court passed an order that Petitioner may prefer an ID and to entertain the same without raising the issue of period of limitation and to pass appropriate orders on merits.

Written Statement:

5. The Respondent denied the allegations of the Petitioner and stated that settlement u/s.12(3) of the Industrial Disputes Act, 1947 dated 17.02.2011 was entered into between the recognized union and the 2nd Party Management in the presence of Assistant Labour Commissioner (Central) for absorption of temporary messengers/sweepers as onetime measure subject to satisfaction of certain educational qualification and had been in the service immediately preceding 15.11.2010 and continues to be working. It was the contention of the Respondent Bank that the casual /temporary messengers/ sweepers must have worked and completed 240 days or more in a calendar year as on 15.11.2010 and continued to be working. The investigating officer stated that the Petitioner Mr.Balamurugan was

engaged only from 25.01.2011. Therefore, the appeal filed by the Petitioner was not acted upon by the Respondent Bank .

6. It is further submitted that as per settlement dated 17.02.2011 the Respondent Bank had issued a circular to Regional Offices dated 23.03.2011 for absorption of casual/temporary messengers/sweepers against permanent vacancies as a onetime measure. The Regional Offices were instructed to collect declaration in the form of Annexure-A(Ex.M1) from the eligible casual/temporary messengers/sweepers . Based on the circular dated 23.03.2011, the Petitioner submitted Annexure-A and it was declared that all the information and particulars given by the Petitioner are true and correct. In clause-2 of the appointment order dated 23.09.2011, it was mentioned that "your services are liable to be terminated, if the certificates produced by you are found to be forged tampered with and particulars furnished in this regard are misrepresented, even before expiry of the probationary period, but with one month's notice or on payment of a month's pay and allowances in lieu of notice." The bank has taken disciplinary action against the branch managers and union members who were involved in the scam relating to absorption of messengers/sweepers into service of the bank based on settlement dated 17.02.2011. The Petitioner has not complied with the essential condition as provided in settlement dated 17.02.2011. It is submitted that the Petitioner was not eligible to be absorbed into service of the Respondent Bank . The Branch Managers had issued false certificate in favour of the Petitioner due to pressure from the Union. It is further stated that only those who are engaged in the capacity of temporary messengers/sweepers for more than 240 days or more continuously in a calendar year preceding the cut-off date of 15.11.2010. As per admission of the Petitioner himself, he was engaged only after the cut- off date prescribed under the settlement dated 17.02.2011, and therefore, the claim petition filed by the Petitioner is liable to be rejected.

Witnesses Examined:

For the First Party Petitioner : WW1 Mr.B.Balamurugan, Petitioner

WW2 Mr.P.Venkatachalam, Ex-Manager

For the 2nd Party/Management : Mr. Manish Kumar, Senior Manager

Documents Marked:

On the Petitioner's side:

Ex.No.	Date	Description
Ex.W1	30.03.2011	Letter from Chief Manager, IOB to Chief Regional Manager, IOB along with Branch Manager certificate
Ex.W2	01.08.2011	Letter from Regional Office, Salem to Chief Manager Fairlands branch
Ex.W3	01.08.2011	Appointment order issued to Petitioner
Ex.W4	02.08.2011	Application form for sub-staff issued by Central Office Chennai
Ex.W5	02.08.2011	Letter from Chief Manager Fairlands branch to Regional Office
Ex.W6	03.08.2011	Application submitted by Petitioner to branch office
Ex.W7	05.11.2011	Letter from Central Office to Branch Manager
Ex.W8	02.02.2012	Confirmation order issued by Regional Office to Petitioner
Ex.W9	06.02.2012	Confirmation order with regard to NPS
Ex.W10	29.11.2011	Salary slip issued by branch office,Salem from 29.11.2011 to 21.03.2014
Ex.W11	12.03.2013	Death certificate of Petitioner's father
Ex.W12	07.03.2014	Advance receipt issued by Salem marriage hall
Ex.W13	-	Marriage invitation of Petitioner
Ex.W14	21.03.2014	Termination order of the Petitioner
Ex.W15	25.04.2014	Appeal preferred by Petitioner to Respondent Bank
Ex.W16	--	Acknowledgement card

Ex.W17	02.06.2014	Affidavit and petition copy in WP No.14855 of 2014
Ex.W18	03.02.2021	Order copy of W.P No.14855 of 2014
Ex.W19	15.09.2021	Failure report of ALC (C)
Ex.W20	-	Identity card of Mr .P.Venkatachalam, WW2

On behalf of Respondent/Management :

Ex.No.	Date	Description
Ex.M1	17.02.2011	12(3) Settlement between the Union and Respondent/Management
Ex.M2	23.03.2011	Circular issued by Respondent to all branches in terms of Clause 3(b) of settlemenmt dated 17.02.2011
Ex.M3	30.03.2011	Undertaking letter submitted by Petitioner
Ex.M4	08.11.2013	Chief Manager of Fairlands branch of Respondent Bank letter to Investigation Officer Central Office
Ex.M5	12.11.2013	Investigation Officer report t submitted to General Manager, Central Office

14. The first point that arises for determination is whether the termination order passed by the Respondent Authority is valid?

15. It is an admitted fact that settlement was carried out between the workmen of the Union and Respondent/Management dated 17.02.2011. A copy of the said settlement is filed by Respondent Bank and marked as Ex.M1. As per terms of the settlement, casual/temporary messengers/sweepers, who have worked for more than five years in any of the branches/office in permanent vacancies and completed 240 or more days continuously in a calendar year as on 15.11.2010 and are still working shall be absorbed in Phase I and II was to be carried out but the condition for absorption was the same. Therefore, as per the terms of settlement, fulfillment of following conditions were essential:-

> "Applicant must have worked for more than 5 years in any of the branches/offices in permanent vacancies and completed 240 or more days continuously in a calendar year as on 15.11.2010 and are still working"

16. The Petitioner in his claim petition has stated as under:-

> **"I was permitted to work as messenger in Fairlands branch of the Respondent Bank from 25.01.2011 to 30.06.2011. Subsequently, I was transferred to work as messenger in Odapalli branch, Salem for four moths i.e, till July, 2011. ……..**
>
> **Again, I was reverted back to the Fairlands branch, Salem in August, 2011, wherein I was given appointment as temporary messenger on 02.08.2011, officially by the Regional Office.".**

17. The appointment letter to the Petitioner [placed at page 5 of the paper book is marked as Ex.W3] was issued on 01.08.2011. This letter was issued to on the basis of the certificate, (placed at Page 1 of the paper book) and marked as Ex.W1. The said certificate was issued on the basis of the letter sent by the Chief Manager of the Respondent Bank, Fairlands branch, Salem to the Chief Regional Manager, Indian Overseas Bank, Salem. As per the details of the certificate, the Petitioner has been engaged as temporary messenger since 18.09.2005 and has been engaged continuously for 240 days or more in calendar year preceding 15.11.2010. This certificate was issued on 30.03.2011.

18. While the Petitioner himself stated in the claim petition that he was engaged by the Respondent Bank on 25.01.2011, although there is no document available on record that may suggest that the Petitioner was appointed on 25.01.2011 and he worked till 30.03.2011 at Fairlands branch . Further, there is no record available on the file/documents that may suggest that the Petitioner was transferred to Odapalli branch, Salem for about four months till July, 2011 and reverted back to Fairlands branch, Salem in August, 2011.

19. As per evidence available on record, I have discussed above, the Petitioner was given appointment on 01.08.2011 as per Ex.W3 on the basis of fake certificate produced by the Petitioner to the Respondent Bank. Since the Petitioner admitted himself that he joined the service of the Respondent Bank on 25.01.2011 and experience certificate was not received by him. Therefore, as per admission made by the Petitioner in the claim petition, he was not entitled to get absorption on the basis of settlement arrived at between the workmen Union and the Respondent/Management . Because, as per terms and conditions of settlement, it was essential that casual/temporary workmen should have worked for more than five years and completed 240 days or more days continuously in a

calendar year as on 15.11.2010. There is no claim of the Petitioner that he worked for more than five years and completed more than 240 days continuously in a calendar year as on 15.11.2010. As per his own claim petition it is stated that he joined the Respondent Bank on 25.01.2011, therefore, he was not entitled to get absorption as per the terms and conditions of the settlement dated 17.02.2011 of the Respondent Bank.

20. The Petitioner has filed the written arguments and in para 1 of the written argument, he again reiterated that he joined the Respondent Bank on 25.01.2011. Even in the proof of affidavit filed by the Petitioner, he admitted that he joined the Fairlands branch of the Respondent Bank on 25.01.2011. Further, the Petitioner's witness, Retired Manager of Respondent Bank, Mr.P.Venkatachalam also in his proof of affidavit and during cross examination has stated that the Petitioner joined the service of Fairlands branch as messenger on 25.01.2011.

21. It is argued on behalf of the Petitioner that till the date of termination, the Petitioner has served for 963 days with Respondent Bank. It is worth to mention that Petitioner was provided appointment on the basis of declaration and certificate submitted by him to the Respondent Bank. However, the Petitioner in the claim statement disowns the certificate as well as the working period mentioned therein (as per Ex.W1) from 18.09.2005 and stated that he joined the service of the Fairlands branch on 25.01.2011, although, there is no proof that he joined the service on 25.01.2011. Therefore, the appointment letter issued by the Respondent Bank was under assumption of the fact that the Petitioner qualified the conditions laid down in the settlement u/s.12(3) dated 17.02.2011 between the workmen Union and the Respondent Bank. Therefore, order of removal from service passed by the Respondent Bank is valid.

22. It is further argued on behalf of the Petitioner that this Tribunal has allowed claim petition in some other Petitioners' cases. A copy of the Award is not filed by the Petitioner for perusal. Therefore, in the absence of the same, difference of facts in the present case on hand and the other cases referred to by the learned counsel cannot be decided by this Tribunal. But, the case of the Petitioner is crystal clear that as per his own statement , the Petitioner joined the service of the Respondent Bank branch at Fairlands, Salem on 25.01.2011 and the cut-off date for absorption was 15.11.2010 as per terms of settlement and it was essential that casual/temporary messenger should have worked and completed 240 days or more in a calendar year as on 15.11.2010 and continued to be working on that day. In such circumstances, the claim of the Petitioner is devoid of any merit.

AWARD

In view of the above discussion, the industrial dispute raised by the Petitioner is dismissed as devoid of any merit. Ordered accordingly.

Record be consigned to the record room.

Place : CHENNAI SUSHIL KUMAR-II, Presiding Officer

Date : 03.08.2026

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1968.—औधोगिक 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 पी. संजीवईअह** के बीच अनुबंध में निर्दिष्ट औधोगिक विवाद में केन्द्रीय सरकार औधोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(140/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-193]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 140/2003)** 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 P. Sanjeevaiah.**

[No. L-12025/01/2026–IR (B-I)-193]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 7th day of July, 2026

INDUSTRIAL DISPUTE L.C.No.140/2003

Between:

Sri P. Sanjeevaiah,

R/o Pobbapuram Post& Vill.

C.K. Dinne Mandal,

Cuddapah.

… Petitioner

And

The Chief General Manager,

(Personnel),

State Bank of India,

LHO, Bank Street,

Hyderabad. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri P. Sanjeevaiah 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 Tribuna!;

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the he joined the service of the Respondent Bank as a messenger from 1983 to 1997. Thereby he worked for about 14 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, 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 interview call letter. Ex.W2 is the service certificate. Ex.W3 is the transfer certificate. Ex.W4 is the service certificate. Ex.W5 is the another service certificate. Ex.W6 is the caste 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, Cuddapah main branch, in terminating the services of Workman Sri P. Sanjeevaiah, 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. 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." 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 appointed as 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." 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 P. Sanjeevaiah, Ex. Messenger by way of oral orders w.e.f. 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 7th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri P. Sanjeevaiah	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 transfer certificate
Ex.W4:	Photocopy of service certificate
Ex.W5:	Photocopy of service certificate
Ex.W6:	Photocopy of caste certificate

Documents marked for the Respondent

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

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1969.—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. नागेस्वरा राओ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(141/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-194]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1969.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 141/2003*)*** 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. Nageswara Rao.**

[No. L-12025/01/2026–IR (B-I)-194]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 7th day of July, 2026

INDUSTRIAL DISPUTE L.C.No.141/2003

Between:

Sri B. Nageswara Rao,

S/o Malakondaiah,

R/o Voletivaripalem(M),

Prakasam Dist.

… Petitioner

And

The Chief General Manager,

(Personnel),

State Bank of India,

LHO, Bank Street,

Hyderabad. …..Respondent

Appearances:

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

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri B. Nageswara 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 Tribuna!;

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the he joined the service of the Respondent Bank as a messenger from 1975 to 1997. Thereby he worked for several 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, 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 nativity certificate. Ex.W3 is the caste 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, Oletivaripalem branch, in terminating the services of Workman Sri B. Nageswara 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. The witness WW1 in chief examination has stated that he had joined in the Respondent bank in the year 1984. Further, witness states, "*I have worked for 194 days from 1984 to 1997. I produced service certificate for the period 1984, 1985, 1986 and 1988 only showing my working period as 194 days…… It is true that I cannot produce any certificate to show that I worked for 240 days of service in any year.* 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 for 194 days in the branch from 1984 to 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 document goes to reveal that the photocopy of the document 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 1984 to 1997 only for 194 days, but intermittently. That the certificate of working days filed by the Petitioner 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., 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.

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 did not work continuously for 240 days in any year or over a period of 36 months." 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 appointed as 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." 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 B. Nageswara Rao, Ex. Messenger by way of oral orders w.e.f. 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 7th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of nativity certificate
Ex.W3:	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 अगस्त, 2026

का.आ. 1970.— 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. प्रभाकर राव** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(145/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-196]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 145/2003*)*** 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. Prabhakar Rao.**

[No. L-12025/01/2026–IR (B-I)-196]

SALONI, 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 L.C.No. 145/2003

Between:

Sri K. Prabhakar Rao,

S/o T. Rajanna,

R/o Obannapeta,

Kondapuram (PS)

Cuddapah Dist.

… Petitioner

And

The Chief General Manager,

(Personnel)

State Bank of India,

Bank Street

Hyderabad. …..Respondent

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 1990 to 1997, and has rendered unblemished service spreading over a period of about 7 years. The Respondent has terminated services of Workman by oral orders with effect from 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 W5. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the X class marks memo. Ex.W2 is the transfer certificate. Ex.W3 is the caste certificate. Ex.W4 is service certificate. Ex.W5 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, Kondapuram branch, in terminating the services of Workman Sri K. Prabhakar Rao, a Messenger with effect from 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 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 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., 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., 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 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 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." 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 appointed as 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." 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 K. Prabhakar Rao, Ex. Messenger by way of oral orders w.e.f. 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 July, 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 X class marks memo
Ex.W2:	Photocopy of transfer certificate
Ex.W3:	Photocopy of caste certificate
Ex.W4:	Photocopy of Service certificate
Ex.W5:	Photocopy of Service certificate

Documents marked for the Respondent

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5:	Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

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

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1971.—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 डी. रामकृष्णईअह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(142/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-195]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 142/2003*)*** 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 D. Ramakrishnaiah.**

[No. L-12025/01/2026–IR (B-I)-195]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 7th day of July, 2026

INDUSTRIAL DISPUTE L.C.No.142/2003

Between:

Sri D. Ramakrishnaiah,

S/o Malakondaiah,

R/o Voletivaripalem(M),

Prakasam Dist.

… Petitioner

And

The Chief General Manager,

(Personnel),

State Bank of India,

LHO, Bank Street,

Hyderabad. …..Respondent

Appearances:

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

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri D. Ramakrishnaiah 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 Tribuna!;

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the he joined the service of the Respondent Bank as a messenger from 1986 to 1997. Thereby he worked for about 11 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, 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 to Ex.W3 are the service certificates. Ex.W4 is the transfer certificate. Ex.W5 is the caste 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, Parlapalli branch, in terminating the services of Workman Sri D. Ramakrishnaiah, 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?

V.

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., 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 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 did not work continuously for 240 days in any year or over a period of 36 months." 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 appointed as 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." 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 D. Ramakrishnaiah, Ex. Messenger by way of oral orders w.e.f. 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 7th day of July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1 to

Ex.W3: Photocopies of service certificates

Ex.W4: Photocopy of transfer certificate

Ex.W5: 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 अगस्त, 2026

का.आ. 1972.—औधोगिक 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. रामूदू** के बीच अनुबंध में निर्दिष्ट औधोगिक विवाद में केन्द्रीय सरकार औधोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(147/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-197]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1972.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 147/2003*)*** 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. Ramudu.**

[No. L-12025/01/2026–IR (B-I)-197]

SALONI, 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 L.C.No. 147/2003

Between:

Sri M. Ramudu,

S/o Ramanna,

D.No.3/164,

Pulivendala, Near Police station,

Cuddapah.

… Petitioner

And

The Chief General Manager,

(Personnel)

State Bank of India,

Bank Street

Hyderabad. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri M. Ramudu 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 1989 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 31.3.97. 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 reminder letter. Ex.W2 is the service certificate. Ex.W3 is the service certificate. Ex.W4 is transfer certificate. Ex.W5 is caste 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, Pulivendula branch, in terminating the services of Workman Sri M. Ramudu, a Messenger with effect from 31.3.97 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 31.3.97 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 31.3.97 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., 31.3.97.

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., 31.3.97. 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 31.3.97 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 31.3.97 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." 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 appointed as 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." 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 M. Ramudu, Ex. Messenger by way of oral orders w.e.f. 31.3.97 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 July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of reminder letter dt. 30.1.92
Ex.W2:	Photocopy of Service certificate
Ex.W3:	Photocopy of Service certificate
Ex.W4:	Photocopy of transfer certificate
Ex.W5:	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 अगस्त, 2026

का.आ. 1973.— 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. वेंकट राओ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(150/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-198]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 150/2003*)*** 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. Venkat Rao.**

[No. L-12025/01/2026–IR (B-I)-198]

SALONI, 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 L.C.No. 150/2003

Between:

Sri M. Venkat Rao

S/o Suryanarayana Rao

R/o 22-2-82, Budividhi,

Vizianagaram.

… Petitioner

And

The Asst. 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 M. Venkat 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 1986 to 1997, and has rendered unblemished service spreading over a period of about 12 years. The Respondent has terminated services of Workman by oral orders with effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait- listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

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

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

from 1.4.97. The said order was followed by the Management. Aggrieved by the said action the Workman herein and similarly situated candidates have filed a writ petition before the Hon'ble High Court and by way of Writ Petition No.9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (Respondents 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.97 as illegal and also non-continuance of the Workmen therein in service by absorbing them in the services of the bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the bank to absorb them in service.

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

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

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

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

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

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

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

should not have relied upon the settlement dated 9.1.1991. Hence, the impugned action of the Management is illegal, unjust, violative of fundamental rights such as Articles 14,16 and 21 of the Constitution of India.

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

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

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

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

15. Discussions were held and on 17.11.1987 an agreement was signed between the federation and the Management bank under Sec. 2(p) read with Sec 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules 1957. A copy of the said settlement dated 17.11.87 which may be herein after referred as first settlement is filed and 4 categories were made as it has already been mentioned in the claim statement above, it need not be repeated here. In the first settlement, it was agreed that the temporary employees as categorized would be given a chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16.7.88 second settlement was arrived between the Federation and the Bank whereby it was agreed to substitute the period of consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the first settlement dated 17.11.1987. This is the second settlement. A 3rd settlement was entered into on 27.10.88 and it was agreed that the bank's service against the vacancies likely to arise from 1988 to 1992 was to be considered. Government of India vide its letter dated 16.8.90 issued guidelines to

all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of approach paper on the issue provided by a committee constituted in this regard. Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary service in 12 consecutive months and who are entitled to benefit of Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para. 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 days or more days, the bank by way of a further concession entered into settlements. Even in respect of those who had put in less than 90 days and also the bank went a step further and said those persons who are working after 1975 were also considered. Hence, there was a genuine effort on the part of the Respondent bank to provide as many as possible jobs subject to the availability of the vacancies. However, para 6 (k) of the approach paper made it clear that it is a one time, exercise in full and final, settlement of all the claims and disputes for the past period, in respect of temporary workmen covered by the settlement. Another settlement was entered on 9.1.91 herein after referred as 4th settlement and the time limit was extended upto 1994 and separate panel was prepared for temporary employees, casual/daily wagers. It was agreed that while vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual/daily wagers, they can be considered for the vacancies arising between 1995-96 only.

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

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

regularization. That the Hon'ble High Court in WP No.12964/94, held as follows, "It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Workman in the present petition is therefore misconceived and not tenable. However, it is open to the Workman to claim any right which flows from the settlement between the union and the bank Management. As already pointed out that it is not the grievance of the Workman that some right which has flown from the settlement in favour of the Workman has been denied by the bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Workman. Writ Petition fails and is accordingly dismissed. No costs."

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

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

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to 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 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 M. Venkat 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 75 days in the said branch in the year 1986. Further, witness states, "*I have worked for 371 days 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 75 days in the branch in the year 1986. Further, witness has stated that he had worked for 371 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., 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, the perusal of these documents goes to reveal that these are the photocopies of the certificates of different dates allegedly issued by Respondent which goes to reveal that the Petitioner had worked as a temporary messenger at the branch of the Respondent bank which 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., 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 97 days of employment during the crucial period as per settlement whereas the Workman herein worked for 75 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 M. Venkat 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 July, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of News paper advertisement/ notification
Ex.W3:	Photocopy of Panel list

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 अगस्त, 2026

का.आ. 1974.— 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 वड्डापल्ली सुब्बा राओ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(151/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-199]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 151/2003*)*** 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 Vaddapalli Subba Rao.**

[No. L-12025/01/2026–IR (B-I)-199]

SALONI, 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 L.C.No. 151/2003

Between:

Sri Vaddapalli Subba Rao,
S/o Appala Naidu,
Kapula Ramalayam,
8th ward, Vuyyuru Mandal
Krishna Distt.

… Petitioner

And
The Dy. General Manager,
State Bank of India,
Vijayawada. …..Respondent

Appearances:

For the Petitioner : Sri B. Vikas, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Vaddapalli Subba 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 Tribuna!;

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, he joined the service of the Respondent Bank as a Non-messenger from 1991 to 1996. Thereby he worked for about 4 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.

He 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 W6. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 to W3 are service certificates.

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, Vuyyuru branch in terminating the services of Workman Sri Vaddapalli Subba Rao, 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.

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

" I am not sponsored by the employment exchange ….

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., 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 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 Vaddapalli Subba Rao, Ex. Non-Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for. The claim statement filed by Workman sans merit, hence, dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

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

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Vaddapalli Subba Rao	NIL

Documents marked for the Petitioner

Ex.W1 to

Ex.W3: Photocopies of service certificates

Documents marked for the Respondent

NIL

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1975.—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 कार्रा मनिक्या राओ** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(156/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-200]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 156/2003*)*** 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 Karra Manikya Rao.**

[No. L-12025/01/2026–IR (B-I)-200]

SALONI, 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 LC No. 156/2003

Between:

Sri Karra ManikyaRao,

S/o K. Subba Rrao,

R/o Venigallavaripalem Post,

Nagaram Mandal,

Via Repalle. .....Petitioner

AND

The Chief General Manager

State Bank of India,

Branch office, Governorpet,

Vijayawada, Krishna dist.. ….Respondent

Appearances:

For the Petitioner: Sri C. Vijaya Sekhara Reddy, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Karra Manikya 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 with a prayer to direct the Respondents management to reinstate the Petitioner into service with continuity of service, with full back wages, with all other attendant benefits.

2. Petitioner has filed his claim statement and as per his claim he has worked continuously in the Respondent organization during the period from 29.10.86 to 1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act and prayed to reinstate him with all benefits from the date of his actual termination.

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

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

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant 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, 27 अगस्त, 2026

का.आ. 1976.—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 के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(201/2003)** प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-201]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 201/2003*)*** 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.

[No. L-12025/01/2026–IR (B-I)-201]

SALONI, 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 LC No. 201/2003

Between:

Sri N. Purnacharndra Rao,

S/o Dayaratnam,

R/o Chiluvuru(P),

Duggirala (M),

Guntur Distt. ..….Petitioner

AND

1. The Chief General Manager(Personal),
   State Bank of India,
   Branch office, Governorpet,
   Vijayawada, Krishna dist..
2. The Chief General Manager(Personal),
   State Bank of India,
   LHO, Bank Street,
   Hyderabad ….Respondents

Appearances:

For the Petitioner: Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri N. Purnachandra 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 with a prayer to direct the Respondents management to reinstate the Petitioner into service with continuity of service, with full back wages, with all other attendant benefits.

2. Petitioner has filed his claim statement and as per his claim he has worked continuously in the Respondent organization during the period from 1988 to 1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act and prayed to reinstate him with all benefits from the date of his actual termination.

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

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

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant 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, 27 अगस्त, 2026

का.आ. 1977.—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 के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(131/2001)** प्रकाशित करती है।

[सं. एल-12012/356/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 131/2001*)*** 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.

[No. L-12012/356/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 26th day of February, 2026

INDUSTRIAL DISPUTE No. 131/2001

Between:

Sri B. Pochaiah,

S/o Shevaiah,

(P) Gawalupally,

(V) Ambojopet,

(M) Shomakarampet,

Medak Distt 502248.

… Petitioner

And

The Assistant General Manager,

(Personnel & HRD Deptt.)

State Bank of India,

Local Head Office, Bank street, Koti,

Hyderabad. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/356/2000-IR(B.I) dated 27.04.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head office Hyderabad. in terminating the services of Sri B. Pochaiah Temporary/ Non-Messenger, SBI w.e.f. 31.3.1997 is justified? If not, what relief applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 131/2001 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that the Workman joined in the service of the management institution as Messenger on 1987 to 1997, and has 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 effect from 1.4.1997. Further, it is submitted that the management of Respondent bank decided to give a chance to temporarily employed personnel "found suitable for permanent appointment" by wait-listing them by offering permanent appointment or waitlisting till such opportunity arises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W11. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the Notification. Further Ex.W2 is the interview call letter. Ex.W3 is the Appointment letter. Ex.W4 is the Service Certificate dated 17.08.1988. Ex.W5 is the Service Certificate dated 20.07.1992. Ex.W6 is the Service Certificate dated 31.12.1993 Ex. W7 is the Service certificate dated 4.11.1996. Ex. W8 is the Service certificate dated 04.11.1996. Ex. W9 is the Service certificate 04.11.1996. Ex. W10 is the notification issued by Respondent. Ex. W11 is the circular dated 14.7.1999.

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 branch in terminating the services of Workman Sri B. Pochaiah 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 for engagement of a temporary messenger in the bank. I did not undergo any kind of selection process before my engagement as a temporary non-messenger in the said branch.."

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

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

document of appointment letter or salary slips in support of his claim for appointment as a non-messenger in the Respondent branch on temporary basis.

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

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

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

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

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

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

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

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

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

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

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

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

30.7.1996 and plea of Workman that the panel shall continue even after 31.3.1997 till last man absorbed has no legal force and same is untenable.

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

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

"I applied in response to the advertisement issued by the bank as per the settlements entered into by the union with the bank…. Further, witness states, *The vacancies of messengers/non-messengers were filled up with the temporary messengers and non-messengers whose names were kept in the panel. It is true that the vacancies were filled up following the order of their seniority in the panel.* Further witness states, *I am not having any document to show that any person having less no. of days of service than me was given appointment on regular basis in the bank."*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

was also agreed that all the non- messenger positions in subordinate cadre including part time attendants specially provided as leave reserve will be filled before 31.3.1997 and as regards to non-messengerial positions it is agreed that all such posts sanctioned and fallen vacant up to 31.3.1997 shall be filled before the empanelled list is allowed to lapse. Thus in both the cases empanelled list were lapsed on 1.4.1997. Ex.M6 is the copy of the settlement dated 30.7.1996. Further, witness states that on 27.2.1997 a memorandum of understanding was reached between the SBI and SBI Staff Federation providing that both the panels above mentioned will lapse on 31.3.1997. Ex.M7 is the copy of the memorandum of understanding and Ex.M8 is the copy of the statements giving the particulars of 1989 non-messenger panel, Ex.M9 is the copy of the statement of 1989 non- messenger panel, Ex.M10 is the copy of statement of 1992 panel. Further, witness states that petitioner was included in the 1989 panel. As the existing vacancies at that time were exhausted and his turn did not come he could not be given permanent employment in the bank as per the agreements. All the appointments were made strictly in accordance with the settlements reached from time to time between SBI and SBI staff federation and as per seniority, number of days of temporary service put in by them in the bank in the given period. Further, MW1 states petitioner was not sponsored by any employment exchange he did not undergo the regular process of selection required for appointment as a regular non-messenger the petitioner has not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were terminated from service by the bank. Further, MW1 states that the vacancies were filled up on regular basis with the temporary employees from the panels and these panels were expired in terms of the settlements so reached and there were no vacancies to absorb such employees. Thus, witness MW1 has proved the documents Ex.M1 to Ex.M12 and also contentions made in the counter. However, MW1 was cross examined by the Petitioner Counsel. But nothing has been elicited in his cross examination so as to discredit the testimony of the witness MW1 as regards the date of lapse of both the panels on 31.3.1997 and reasons assigned for non-absorption of the Petitioner from the panel list to the permanent post. Moreover the witness MW1 was re-examined by the Respondent and the witness MW1 states that panels were expired in terms of the settlement send absorptions to the extent of the available vacancies were made. There was no termination of any temporary messenger as such but their services were not utilized after the cut off date as the available vacancies were already filled up and most of these Petitioners were not in the service of the bank as on the date of the expiry date of the panels. Therefore, in view of the aforesaid testimony of the MW1 in re-examination in the absence of cross examination remained uncontraverted, the claim of the Workman that he was entitled for absorption in permanent post in the branch of Respondent Management on the basis of panel list is found not established.

This point is answered against the Workman.

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

This Point is answered accordingly.

AWARD

In view of the fore gone discussion, it is held that the action of the Respondent bank in terminating the services of Sri B. Pochaiah 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 26th day of February, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri B. Pochaiah	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of Notification
Ex.W2:	Photocopy of interview call letter
Ex.W3:	Photocopy of Appointment letter
Ex.W4:	Photocopy of Service Certificate dated 17.08.1988
Ex.W5:	Photocopy of Service Certificate dated 20.07.1992
Ex.W6:	Photocopy of Service Certificate dated 31.12.1993

Ex. W7: Photocopy of Service certificate dated 4.11.1996

Ex.W8: Photocopy of Service certificate dated 04.11.1996

Ex.W9: Photocopy of Service certificate 04.11.1996

Ex.W10: Photocopy of Service certificate dated 10.04.1997

Ex.W11: 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 अगस्त, 2026

का.आ. 1978.—औद्योगिक 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. अशोक** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(211/2001)** प्रकाशित करती है।

[सं. एल-12012/83/2001-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 211/2001***)* 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. Ashok.**

[No. L-12012/83/2001–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 13th day of April, 2026

INDUSTRIAL DISPUTE No. 211/2001

Between:

Sri. K. Ashok,

S/o S. Laxshmaiah,

H.No. 6-40, (P) & (M),

Narasapur-502313,

Medak Distt. … Petitioner

And

The Assistant General Manager,

(Personnel & HRD Department)

State Bank of India,

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/83/2001-IR(B.I) dated 07.09.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri K. Ashok, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified or not? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 211/2001 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioner s 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 Management Institution as Messenger on 1989 to 1997 and rendered unblemished service spreading over a period of about 9 years and by dint of hard work till his services were terminated by oral orders with effect from 1.04.1997. 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 empaneled 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 W16, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, and produced 12 documents (Ex.M1–M12), including all five settlements, panel details, and judgments of the Hon'ble High Court and Supreme Court, conclusively supporting the Bank's position.

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

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri K. Ashok, 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 she 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, she 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 she 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 she 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 Narasapur ADB Branch, on 17.1.1989 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 his any order of termination. Further, WW1 states that he had worked in the branches of the Respondent, and documents marked by WW1 are as follows: Ex.W1 is the service certificate dated 17.01.1989. Ex. W2 is the service certificate dated 20.04.1989. Ex. W3 is the service certificate dated 20.07.1992. Ex. W4 is the Application form. Ex.W5 is the call letter for interview. Ex. W6 is the Panel list. Ex. W7 is the Service certificate dated 27.05.1991. Ex. W8 is the service certificate dated 21.05.1993. Ex. W9 is the service certificate dated 02.04.1993. Ex. W10 is the service certificate dated 01.05.1994. Ex. W11 is the service certificate dated 23.03.1995. Ex W12 is the service certificate dated 30.04.1996. Ex. W13 is the service certificate dated 15.01.1997. Ex. W14 is the service certificate. Ex. W15 is the Notification. Ex.W16 is present vacancy position in all the branches of the State.

service certificate dated 01.05.1994.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 200 days continuously at Jeedimetla branch during the period from June, 1996 to January, 1997, Ex.W13 is the certificate in this regard. Lastly, he had worked for 66 days from January, 1997 to March, 1997. 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 for a period of 89 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously, and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
June, 1996	04
July, 1996	31
August, 1996	30
September, 1996	30
October, 1996	31
November, 1996	30
December, 1996	31
January, 1997	21 [13+8]
February, 1997	27
March, 1997	31
Total	266

Thus, sum of working days as shown in the above table is 266 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

22. However, Learned Counsel for Respondent bank has contended that the Petitioner has not worked continuously for 240 days in a calendar year with the Respondent and protection from termination is not available to Petitioner as per provision under section 25 F of I.D. Act, 1947. On going oral and documentary evidence available on record it manifest that Respondent had engaged the Petitioner as a temporary messenger in different spells as mentioned in his appointment letter during the total period of about 9 years. We may conclude from the documents filed in evidence on record, that the Respondent has created artificial breaks in the working days of the Petitioner in order to deprive him from completing 240 days of continuous service and in order to defeat social security provision under the I.D. Act, 1947. Moreover, Petitioner has been regularly engaged during the long period of 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 Petitioner s 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 her 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 his under the provision of Industrial Disputes Act, 1947.

24. On the other hand, Respondent in evidence has examined MW1 witness Sri Aluru Rama Rao who has reiterated the contention made in the counter regarding engagement of working days of the Workman. He has stated that there is a procedure for appointment of messengers/non-messengers in the bank on regular basis. Petitioner was not sponsored by any employment exchange. He did not undergo the regular process of selection required for appointment as a regular 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 not terminated from service by the bank. 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. Further, this witness was cross examined by the Petitioner Counsel and in his cross examination witness MW1 states that he do not know the Petitioner individually and he did not give any appointment order either temporarily casually or whatever it is in the capacity of Personnel Officer Zonal office, Hyderabad module. Further, witness states in cross examination that since they are casual and temporary Workers they were not appointed after 31.3.1997 as all available vacancies were filled in by that time with the available panels. As there were no available vacancies and the panels were lapsed hence, the bank could not absorb any of these people in a regular basis. The Learned Counsel for Respondent has further contended that the Petitioner witness WW1 in his statement has admitted that he has not completed 240 days in any year therefore his termination from employment is not in contravention of the provision of section 25 F.

25. 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 2 separate spells in a period of one year. He worked for 200 days continuously at Jeedimetla branch during the period from June, 1996 to January, 1997, Ex.W13 is the certificate in this regard. Lastly, he had worked for 66 days from January, 1997 to March, 1997. 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 7 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.

26. **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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29. 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.

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

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri. K. Ashok, 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 13th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate dated 17.01.1989
Ex.W2:	Photocopy of service certificate dated 20.04.1989
Ex.W3:	Photocopy of service certificate dated 20.07.1992
Ex.W4:	Photocopy of Application form
Ex.W5:	Photocopy of the call letter for interview
Ex.W6:	Photocopy of Panel list
Ex.W7:	Photocopy of Service certificate dated 27.05.1991
Ex.W8:	Photocopy of Service certificate dated 21.05.1993
Ex.W9:	Photocopy of Service certificate dated 02.04.1994
Ex.W10:	Photocopy of service certificate dated 01.05.1994
Ex.W11:	Photocopy of Service certificate dated 22.03.1995
Ex.W12:	Photocopy of Service certificate dated 30.04.1996
Ex.W13:	Photocopy of service certificate 15.01.1997
Ex.W14:	Photocopy of service certificate
Ex.W15:	Photocopy of Notification
Ex.W16:	Photocopy of vacancy position all over the state

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 अगस्त, 2026

का.आ. 1979.—औधोगिक 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 सी.यू. वेंकटेश्वर** के बीच अनुबंध में निर्दिष्ट औधोगिक विवाद में केन्द्रीय सरकार औधोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के ipkV **(51/2002)** प्रकाशित करती है।

[सं. एल-12012/255/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 51/2002***)* 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 workman **Sri C.U. Venkateswar.**

[No. L-12012/255/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 13th day of April, 2026

INDUSTRIAL DISPUTE No. 51/2002

[Old ID No.143/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri C.U. Venkateswar,
S/o C.L. Ushaiah,
R/o H.No. 8-2-432,
Gandhipura Basthi, Rd. No.4,
Banjara Hills,
Hyderabad-34.

. … Petitioner

And

The Assistant General Manager,
State Bank of India,
(Personnel & HRD Department)
Local Head Office,
Bank Street, Koti,
Hyderabad – 500 095. …..Respondent

Appearances:

For the Petitioner : M/s. V. Mallik, K. Shankar Rao, M. Madhusudhan & Galaiah Velugu, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/255/2000-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. 143/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri C.U. Venkateswar, Temporary Messenger, by way of oral orders with effect from 31.3.1997 is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 51/2002 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1981 to 1997 and rendered unblemished service spreading over a period of about 16 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 W15, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 C.U. Venkateswar, 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 as a Watchman and worked on 2.12.1981 and 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 at State Bank Staff College of the Respondent and Ex.W2 is the Service certificate for 40 days for the period of 2.12.81 to 24.2.82 dated 1.7.1989. Ex. W1 is the Notification. Ex. W3 is the interview call letter. Ex. W4 is the absorption letter. Ex.W5 to Ex.W10 are the Service certificates dated 28.2.93, 17.1.93, 13.6.92, 5.4.1997, 5.4.1997, 5.4.97, 5.4.97, 5.4.97, and 19.5.97. Ex. W14 is the letter to Employment exchange. Ex. W15 is the Ex-Temporary employees Inspection and Audit Report.

21. Further WW1 states that he worked for more than 240 days continuously in three separate spells in one year period of time and he worked for 30 days continuously during April, 1996, Ex.W11 is the certificate in this regard. Then, he worked from May to June of 1996 for 53 days continuously, Ex.W12 is the certificate in this regard. Lastly, he had worked for 173 days from October, 1996 to March, 1997, Ex.W13 is the concerned service certificate. 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 1981 for a period of 40 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
April,1996	30
May, 1996	23
June, 1996	30
October, 1996	24
November, 1996	28
December, 1996	31
January, 1997	31
February, 1997	28
March, 1997	31
Total	256

Thus, sum of working days as shown in the above table is 256 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 16 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 16 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 16 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 3 separate spells in a period of one year. He worked for 30 days continuously during April, 1996, at A.C. Guards branch. Ex.W11 is the certificate in this regard. He worked for 53 days during May to June, 1996 at the same branch. Lastly, he had worked for 173 days at service branch, Hyderabad from October, 1996 to March, 1997. 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 1981 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 16 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 16 years i.e., from 1981 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 1981 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 2.12.81 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri C.U. Venkateswar, 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 13th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri C.U. Venkateswar	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of Notification
Ex.W2:	Photocopy of Service certificate dated 1.7.89
Ex.W3:	Photocopy of interview call letter
Ex.W4:	Photocopy of Panel list
Ex.W5:	Photocopy of Service certificate dated 28.2.93
Ex.W6:	Photocopy of. Service certificate dated 17.1.93
Ex.W7:	Photocopy of Service certificate dated 5.4.97
Ex.W8:	Photocopy of Service certificate dated 5.4.97
Ex.W9:	Photocopy of Service certificate dated 5.4.97
Ex.W10:	Photocopy of Service certificate dated 5.4.97
Ex.W11:	Photocopy of Service certificate dt. 5.4.97
Ex.W12:	Photocopy of Service certificate dated 5.4.97
Ex.W13:	Photocopy of Service certificate dated 19.5.97
Ex.W14:	Photocopy of notification sent to Employment exchange
Ex.W15:	Photocopy of Ex-Temporary employees Inspection and Audit Report

Documents marked for the Respondent

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

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

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

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

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1980.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **आंध्रा बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (81/2019) प्रकाशित करती है।

[सं. एल-39025/01/2026-आई.आर.(बी-II)-106]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 81/2019*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Andhra Bank and their workmen.

[No. L-39025/01/2026–IR (B-II)-106]

SALONI, Dy. Director

ANNEXURE

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

Date: 04-08-2026

Present: SUSHIL KUMAR-II,

PRESIDING OFFICER

I.D. No.81/2019

BETWEEN

Smt .V. Vasumathy,

W/o, Late, Veeramuthy,

No.2,G1,Lakshmipuram,

1st Main Road, Velacherry,

Chennai-600 042. : 1st Party/Petitioner

AND

1. The Chief Manager,
   Andhra Bank, Zonal Office,
   Linghi Chetty Street,
   Chennai – 600 001.
2. The Sr. Manager(HR),
   Andhra Bank, zonal office,
   Linghi Chetty Street,
   Chennai-600 001.. : 2n Party/Respondents

Appearance:

For the 1st Party/ Petitioner : Mr. D Ravindranathan, Advocate

For the 2nd Party/Respondents : M/s. Aiyar and Dolia, Advocates

****

This claim petition has been filed by the Petitioner u/s.2A(2) of the Industrial Disputes Act, 1947 directly seeking relief to reinstate the petitioner workman into service with back wages, continuity of service and all other attendant benefits.,

Factual matrix:-

2. As per the claim, the petitioner joined the service of Respondent Bank 28.11.2011 and has worked for more than 240 days in each of the calendar year from January 2012 to November 2018 i.e., for 7 long years without any break and herm monthly pay was credited to the SB account of the petitioner in the Mambakkam Branch of the respondent bank bearing a/c no.173410100016026. Instead of regularizing her services, the management terminated her services orally with effect from 30.11.2017 without any notice.

3. It is the further claim of the petitioner that she was in continuous service for more than 2 years from 01.10.2015 to 30.11.2017 and worked for more than 240 days continuously in each calendar year and monthly wages was paid by voucher and later the monthly wages was deposited into her bank account and her last drawn salary was Rs.16,997/- . The Petitioner raised an industrial dispute on 02.02.2019 under section 2A of the Industrial disputes Act 1947 before the Assistant Labour Commissioner (Central) which ended in failure and hence approached this Tribunal.

4. It is pertinent to mention that even when the Petitioner was terminated from service without notice, the respondent has issued online advertisement during April, 2017 calling for applications for the post of sub-staff without filling the same from amongst the existing staff working for years together and thereby violated the provisions of the Industrial Disputes Act,1947 in a vindictive and arbitrary manner. The termination of the Petitioner from service without any notice is in violation of the provisions of section 25F of the Act and it amounts to retrenchment. However, no notice pay or compensation has been paid to the Petitioner.

Written statement:

5. The respondent bank in its reply stated that the petitioner was never appointed at the said Branches of the Respondent Bank as sub staff. The petitioner was engaged for specific purpose for which she was paid with fair wages on the basis of Equal pay for Equal work. Therefore, the above mentioned engagement was casual in nature and thus, it shall not amount to appointment for the post of sub staff. The services provided by the Petitioner by no stretch of imagination can be considered for regularization. The petitioner raised the present dispute for regularization of her services. The petitioner alleging that as if the petitioner was engaged on a permanent job, and she is attempting to enter into the services of the Respondent through back door. Therefore, the question of termination of the petitioner during the pendency of the conciliation proceeding is not true, only the permanent employees are given the order of termination not the casual employee. The claim of the petitioner that the services were terminated verbally with immediate effect without giving any chance of hearing his false. The petitioner was never appointed in the service of the Bank, so the question of terminating her service does not arise. The petitioner is not entitled for payment of compensation on retrenchment. The application made under sec.2A of ID Act, 1947 is unsustainable in law. It is further stated that merely because the petitioner has completed 240 days if service in a year preceding the date of disengagement, the same would not mean that her services are liable to be regularized. In support of its claim, the Respondent relied on the judgement of Hon'ble Supreme Court in the court of Gangadhar Pillai Vs.Seimens Ltd.,(2007) 1 SCC 533. In view of the above reasons, the claim petition filled by the petitioner is liable to be dismissed.

Witnesses Examined:

For the First Party Petitioner : WW1 Smt V. Vasumathy, petitioner

For the 2nd Party/Management : None

Documents Marked:

On the Petitioner's side:

Ex.No.	Date	Description
Ex.W1	February 2016	Copy of identity cards issued to the Petitioner
Ex.W2	December 2011	Copy of Commendation letter issued to the Petitioner by 1st Respondent
Ex.W3	07.07.2018	Salary slip of Petitioner for April, 2015 by M/s.Upshot Utility Services
Ex.W4	02.02.2019	Copy of letter of the Petitioner
Ex.W5	23.04.2019	Letter updated of Upshot Utility Service
Ex.W6	-	Letter of the Petitioner

Documents Marked:

On behalf of Respondent/Management:

6. Heard the learned counsel appearing on either side and perused the material available on record.

7. The first point that raises for determination is whether the petitioner has completed 240 days continuous service in the calendar year?

8. The learned counsel appearing on behalf of the Appellant has submitted that salary calculation sheet prepared by the respondent bank which is marked as Ex.W2. As per the calculation the petitioner was paid salary during the years 2016 to 2021, which establish the fact that the Petitioner has completed 240 days continuously in a period of 12 calendar months. He also referred to the document which reveals the amount of salary was remitted into the bank account of the petitioner and the same is marked as Ex.W2. He also submitted that the bank statement reveals that monthly salary of the petitioner was credited for the period November 2016 to December 2017. The learned counsel appearing on behalf of the Appellant further submitted that as per Ex.W3 which is the copy of certificate issued by the Branch Manager of Andhra Bank, for the period 01-10-15 to 30-11-17 to the Petitioner as a sub staff. It is also certified that petitioner was dedicated and performed her duties with almost sincerity. All these documents produced by the Petitioner clearly establish the fact that Petitioner has worked with Respondent Bank continuously for more than more than 240 days in a period of 12 calendar months. Therefore, the removal of Petitioner from service amounts to retrenchment, which is illegal in the eye of law.

9. Per contra, the learned counsel appearing on behalf of the Respondent contended that stated that the petitioner was never appointed in any of the branches of the Respondent Bank as sub staff. The petitioner was engaged for specific purpose for which she was paid with fair wages on the basis of equal pay for equal work. Therefore, the above mentioned engagement was casual in nature and thus, it shall not amount to appointment for the post of sub staff. The services provided by the Petitioner by no stretch of imagination can be considered for regularization. The petitioner raised the present dispute for regularization of her services which is nothing but back door entry. Since the petitioner was engaged on need basis, the question of paying compensation for retrenchment does not arise.

10. On perusal of the documents marked on behalf of the Petitioner Ex.W1 to W3 clearly establish the fact that the Petitioner has worked for more than 240 days continuously in a period of 12 calendar months. From Ex.W3 it appears that the Petitioner has continuously worked as sub-staff from 01-10-15 to 30-11-17 as per the certificate issued by the Branch Manager of the Respondent Bank. The Respondent Bank has not disproved the claim of the Petitioner or failed to bring any contra evidence in support the claim of Respondent Bank. Thus the removal of the Petitioner from service by the Respondent Bank is in violation of Section 25F of the I.D. Act, 1947.

11. As per section 25F of the ID Act when a workman has completed continuous service of 240 days in a calendar year, then one month notice pay should be given indicating the reasons for retrenchment and must be paid

retrenchment compensation equivalent to 15 days average pay for every completed years of service or part thereof in excess of six months.

12. Section 25F of the Industrial Disputes Act, 1947 describe the conditions precedent to retrenchment of workman, who has completed continuous service of 240 days in a calendar year, then one month notice must be given to the workman indicating reasons for retrenchment or must have provided one month wages in lieu of notice period plus retrenchment compensation equivalent to 15 days average pay for every completed years of service or part thereof in excess of six months. These conditions are mandatory as per provisions of section 25F of the Act and non-compliance makes the retrenchment invalid. Therefore, removal of the Petitioner from service was in violation of the provisions of section 25F of the Act. In these circumstances, the oral termination of the Petitioner from service is illegal, amounts to retrenchment and the employer failed to adopt due process of law, while terminating the Petitioner from service. Thus, the Petitioner is entitled to get reinstatement into service of the Respondent / Management.

13. Now, I have to consider entitlement of back wages to the Petitioner.

14. This fact is established, as I discussed above, the Petitioner was removed from service without assigning any reasons; no opportunity to defend the Petitioner was provided; neither one month notice was given to the Petitioner nor paid one month salary in lieu of notice, 15 days salary of average pay for every calendar year. Therefore, the Petitioner was not at fault at the time of termination of her service. It is also proved that she was not able to perform any work of the Respondent/Management after she was disengaged from service. In such circumstances, the Petitioner is entitled to get 25% of back wages as per last drawn salary paid.

AWARD

In view of the above discussion, the Petitioner is entitled to get reinstatement into service of the Respondent Bank along with continuity of service and 25% of back wages. The Respondent/Management is directed to reinstate the Petitioner into service within a period of two months after publication of this Award and pay the back wages @ 25%. Ordered accordingly.

Ordered accordingly.

Record be consigned to the record room.

Place : CHENNAI SUSHIL KUMAR-II, Presiding Officer

Date : 04.08.2026

नई दिल्ली, 27 अगस्त, 2026

का.आ. 1981.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **इंडियन बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (20/2017) प्रकाशित करती है।

[सं. एल-39025/01/2026-आई.आर.(बी-II)-107]

सलोनी, उप निदेशक

New Delhi, the 27th August, 2026

S.O. 1981.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 20/2017*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen.

[No. L-39025/01/2026–IR (B-II)-107]

SALONI, Dy. Director

ANNEXURE

TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Date: 10-08-2026

Present: SUSHIL KUMAR-II,

PRESIDING OFFICER

I.D. No.20/2017

BETWEEN

Indian Bank Jewel Appraisers Association

(Red No.3471/CN I),

Rep by its General Secretary : 1st Party/Petitioner

No.12/1, Lakshmanan Street,
MGR Nagar,
Chennai-600 078.

AND

The General Manager,
Indian Bank Corporate Office,
254-260, Avvai Shanmugam Salai,
Chennai-600 014. : 2n Party/Respondent

Appearance:

For the 1st Party/ Petitioner : M/s.Balan Haridas, Advocates

For the 2nd Party/Respondent : M/s. Aiyar & Dolia, Advocates

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The claim petition has been filed by the Indian Bank Jewel Appraisers' Association with a request to pass an Award holding that the demand of the Petitioner Association that Jewel Appraisers/Members of the Petitioner are liable to get absorbed and regularized in the service of the Respondent/Bank and therefore, direct the Respondent/Bank to absorb and regularize the Jewel Appraisers /Members of the Petitioner Association from the date of their completion of 480 days in two calendar years.

Background of the case:-

2. In the year 2013, the Petitioner Association had filed an industrial dispute u/s.2(k) of the Industrial Disputes Act, 1947 before the Assistant Labour Commissioner (Conciliation). As per record of the Assistant Labour Commissioner (Central), Chennai , with regard to the said dispute, conciliation ended in failure. Thereafter, the Govt. of India, Ministry of Labour declined to refer the matter for adjudication holding that the demand of the Appraisers federation to regularise the services of the concerned Jewel Appraisers is not justified and they are not entitled to any relief. This denial to refer the matter was prejudicial scrutiny and hence, it was challenged by the Petitioner Association through W.P No.3364 of 2014 and the Hon'ble High Court held that if a comprehensive enquiry is conducted for adjudication, no one will be prejudiced and further directed the 2nd Respondent i.e., Indian Bank to conduct a detailed enquiry in the presence of 3rd Respondent i.e., Assistant Labour Commissioner (Central) and the Petitioner.

3. This judgement of the Hon'ble High Court was challenged through W.A. No.1564 of 2015 and the Division Bench of the Hon'ble High Court held that matter shall be taken up by the 1st Respondent / Writ Petitioner Association before the Industrial Tribunal, which shall adjudicate the matter after affording opportunity to the Petitioner and concerned parties. The Hon'ble Court further directed that all the contentions raised by the learned counsels on either side and also the citation relied upon by them can very be produced before the Industrial Tribunal at the time of enquiry to adjudicate the issue.

4. In compliance with the order passed by the Hon'ble High Court as mentioned above, the Petitioner Association filed the claim petition and stated that the Petitioner Association is a registered Association under the Trade Union Act. The Jewel Appraisers nearly about 1550 in numbers are employed by the Respondent Bank in various branches of all over India who are members of our Association. It is further stated that there are more than 3000 Jewel Appraisers employed (All over India) under the Respondent Bank and in its branches. During the course of hearing, the list of members was provided by the Petitioner Association as Annexure 'A".

5. The Respondent/Bank is lending loan, by accepting gold coins and gold ornaments as security and employed Jewel Appraisers like the petitioners to weigh and assess the value and verify the quality and quantity of gold jewels or ornaments tendered by the borrowers at all branches. Based on the certification of the quality of the gold by the jewel Appraisers, the quantum of the loan to be granted upon the mortgaged jewels would be decided by the Branch Manager as to whether to grant loan or not to the customers. This facility was extended to farmers in the rural sector under the directions of the Reserve bank of India. Out of 2565 branches, more than 2000 branches advanced loans on jewels and in the year 1976, approximately loans to the tune of Rs. 17 crores was provided to the borrowers. As on today (2014-2016), an amount of Rs.10 crore (minimum) per branch was provided as Jewel loan which would prove that lending jewel loan is one of the major and main function of the Respondent bank which cannot be performed without the help of the Jewel Appraisers, who are also engaged in other clerical jobs of the bank. Jewel Appraisers are also instructed to re-appraise the jewels for which a separate charge has been given to the re-appraiser from the account of BGL Account debit. It is further submitted that the Respondent bank is having around 25% of total income of the bank's business through the jewel loan. The Jewel Appraisers who are technically qualified persons were appointed on temporary basis for one year, the same was extended further on certain conditions that they should execute an indemnity bond in favour of the bank and also produce surety and that they would not be entitled to any

benefits such as leave, PF, Gratuity, bonus etc. The Jewel Appraisers were necessarily to be present for the whole working hours of the bank. Accordingly they report to the bank at 9.30 am till 5.00 pm present in the bank premises. Further, the weighing machines and weights are provided by the Bank and they should appraise the jewels only in the bank premises. Thus, it is clear that these Appraisers are working in the bank premises on all working days, during bank hours like other bank employees. The jewels are with the Appraisers till the end of the day and the same would be taken into custody by the BM/ABM only at the end of the day.

6. It is further stated that before 1976, these Appraisers were paid certain amount, collected from the customers and credited to the account of "Appraisers Fee Collected amount" and debited to the expenditure account of " Appraisers fee account" and the same was paid to the Appraisers. Originally these Appraisers were paid Rs.0.10 paise for every Rs.100 of loan, with a minimum of 0.50 paise per loan, subject to minimum guaranteed commission of Rs.150 per month. Some of them were paid up to Rs.250/-per month. In Feb 1977, the Respondent Bank revised the payment of 0.10 paise for Rs.100/- of the loan to Rs.1 for Rs. 100/- with a minimum guaranteed commission of Rs. 150/- per month. But, the Jewel Appraisers were not considered as regular workmen of the Bank and were not paid monthly salary along with other service benefits. Therefore, the Petitioner Union raised an industrial dispute, demanding regularization of the Jewel Appraisers for payment on par with the regular clerical "Award staff" (covered by Sastri Award, Desai Award) of the Bank. The Industrial Tribunal No.25 of 1979, allowed the claim of the Appraisers that they should be treated on par with the regular clerical staff (Award staff) by an Award dated 03.12.1979 which was challenged by way of a Writ Petition in W.P.No.1947 of 1980 before the Hon'ble High Court. The Award was upheld by the High Court and ultimately by the Supreme Court. While pending Writ Petition, the bank implemented a new scheme in respect of engaging jewel Appraisers, as the System of engaging jewel loan Appraisers on contract basis was dispensed with and new system of empanelling valuers/Appraisers was introduced from April 1983, i.e., Panel Appraisers. This was done only with an intention to deny the legal rights of the Appraisers in denying similar treatment to the employees of the bank as well as the possibility of future absorption in the bank. The Appraisers who were working as on the date of the Award, were absorbed as part time clerks, pursuant to the Award of the Industrial Tribunal, and salary was fixed as Rs.800/- as basic pay and DA, HRA, and CCA was paid as applicable to the part time clerical staff in the year 1991.

7. Thus, the Jewel Appraisers, who were engaged as on 03.12.1979 are working as part time clerk, and who were engaged after 1983 are working as panel appraisers and were paid @ Rs.300/- for one loan. The Respondent/Bank provided no order of engagement to the Appraisers, but they were asked to do other works as evidenced from the letters dated 21.03.2012 & 13.12.2004. In the year 1999 itself, all the Bank branches was instructed to have more than one Jewel Appraisers in each branch. The allotment of work was controlled by the concerned branch manager and these Appraisers were interchanged between the branches whenever need arises. Thus, these Appraisers were also subject to transfer from one Branch to another Branch. Further, the work of the Appraisers, assessed by the Branch Managers and used to give appraisal report for Jewel Appraisers in the Panel. It is further stated that the seat of the Appraisers should be visible to the Branch Manager and CCTV Camera should be available at the seat of Appraisers. Prior permission is must before taking off from the work and Appraisers are also engaged to do all incidental work. These facts clearly prove that, the Jewel Appraisers were supervised and controlled by the Branch Managers of the concerned branches.

8. The Respondent Bank has absorbed and regularized the services of the Jewel Appraisers who were engaged before 1983 and has discriminated the Appraisers who are engaged after 1983. The Appraisers are working for the past 30 years and they have completed 240 days in any year, and they are liable to be absorbed (regularized) as employees of the Respondent Bank. It is also stated that one of the Branch Managers has sought permission to absorb one of the Appraiser namely V.Raju as part time clerk. The Jewel Appraisers cannot do any independent business since they are sitting whole day in the bank and it is only source of their livelihood. Since the bank has refused to consider the demand, the Petitioner Association raised an industrial dispute before the Tribunal.

9. The Respondent Bank in its counter statement denied the allegations made in the claim statement that Jewel Appraisers are employees of the bank. At present, no Jewel Appraisers are employed by Indian Bank and no jewel appraiser is on the pay roll of Indian bank. Advancing loan on pledged jewels is not a main stream of banking on which the Bank's revenue is dependant and such kind of work cannot be called as permanent work as there is no guarantee of jewels being pledged daily for availing loan. The role of Jewel appraisers is restricted only to checking the quality of the jewels that the customer pledges for loan and certifying the quality of the jewel pledged and its market value. The decision to extend the loan and quantum is left to the discretion of the branch manager and the appraiser has no role to play in this matter. The jewel appraisers receive their fee / commission for professional services rendered from the customers and not from the bank. The Jewel appraiser's role ends with giving the certificate assuring the quality of the jewels that is to be pledged. The Appraiser's certificate is independent of loan application and thus, no other work is performed by the jewel appraisers. No unique service record number is provided to jewel appraisers . It is false to state that the Bank has 25% of its income out of jewel loans. The position of jewel appraisers are similarly placed as bank panel lawyers and engineers and the Bank maintains the list of panel jewel appraisers just as in case of panel advocates/engineers and their services are used for the benefit of customers. The Bank is allowing panel jewel appraiser to charge a professional fee, by way of appraiser charges directly from the

intended customers. The system of engaging jewel appraisers on contract basis was dispensed with and a new system of empanelling valuers/appraisers was introduced from April, 1983. They appraise jewels in the presence of the Manager within the bank premises and issue certificate. The fee for the same will be borne by the customers/borrowers, who intend to take loan and they are not barred from doing any other business. They are free to carry on private business outside the premises and are never asked to stay inside the premises when there is no apprising work at all. The role played by them is issuing certificate of appraisal and there is no master and servant relationship exists. The jewel appraisers are only in the panel and they are paid for their services rendered by the customers and are required as and when there is a need for appraising jewels. The Respondent does not have any control / supervision over the jewel appraisers and they do not transfer them. Therefore, the claim of the Association is liable to be dismissed.

10. The Petitioner Association filed its rejoinder and stated that the Jewel Appraisers are asked to be present inside the bank premises for the whole day and there was no possibility to carry out any personal work. The introduction of new system in engaging appraisers is not genuine and only with an intention to deny the legal rights of the jewel appraisers.

Witnesses Examined:

For the First Party Petitioner: WW1 Mr.S.Bhakthavathsalam, General Secretary

WW2 Mr. A.Nagaraj Achari

WW3 Mr.G.Jegannatha Jenarthanan

For the 2nd Party/Management : MW1 Mr. Gopakumar G.S, AGM

Documents Marked:

On the Petitioner's side:

Ex.No.	Date	Description
Ex.W1	03.12.1979	Award in ID No. 29 of 1979
Ex.W2	10.01.1995	Pension papers of Krishnamoorthy
Ex.W3	02.06.1995	Recommendation by Zonal Officer, Vellore
Ex.W4	02.06.1995	Creation of part time Jewel Appraisers panel
Ex.W5	06.10.1995	Charges for appraisal and vouchers
Ex.W6	08.05.1999	Transfer of Jewel Appraiser Mr Elalgovan
Ex.W7	28.02.2000	Circular regarding jewel loan
Ex.W8	28.06.2000	Circular regarding lending to agriculture
Ex.W9	25.07.2000	Circular regarding increase in advance of jewel loan
Ex.W10	02.03.2002	Communication from Regional Office to Veerapandi branch
Ex.W11	25.01.2003	Circular regarding engaging Jewel Appraisers under panel system
Ex.W12	14.09.2004 & 22.9.2004	Circular regarding 100% jewel verification
Ex.W13	10.12.2004	Reappraisal report of Jewel Appraiser Dhatchanamoorthy
Ex.W14	13.12.2004	Circular regarding sanctioning of jewel loan at branches
Ex.W15	24.08.2005	Recommendation letter with annexure
Ex.W16	10.09.2005	Order of deputation
Ex.W17	16.11.2005	Circular regarding increase in advance rate per gram
Ex.W18	03.12.2008	Communication regarding inspection by Appraiser
Ex.W19	24.07.2009	Circular regarding safeguards to be followed while granting jewel loan
Ex.W20	22.03.2010	Letter of recommendation for absorption of appraiser Mr.Raju
Ex.W21	08.04.2010	Circular regarding safeguards to be followed while granting jewel loan
Ex.W22	15.04.2010	Transfer of Jewel Appraiser A.Jagadeswaran

Ex.W23	05.07.2010	Application for opening of Jewel loan filed by Jewel Appraisers
Ex.W24	21.01.2011	Details of Jewel Appraisers in Neelangarai branch
Ex.W25	02.09.2011	Inter change of services of Jewel Appraisers
Ex.W26	29.10.2012	Jewel loan opening ledger from Anna Nagar branch, Madurai
Ex.W27	02.01.2013	Registration certificate of union along with members list
Ex.W28	10.05.2013	Empanelment of Jewel Appraisers 3 members
Ex.W29	28.11.2013	Circular regarding fixing additional CCTV camera covering Jewel Appraisers seat
Ex.W30	30.05.2014	Reappraisal of jewel
Ex.W31	11.06.2014	Circular from Zonal office to Anna Nagar Madurai branch
Ex.W32	19.06.2014	2K petition
Ex.W33	24.10.2014	Conditions for auction
Ex.W34	27.02.2015	Auction of jewels
Ex.W35	28.03.2016	Policy on jewel loan
Ex.W36	05.08.2016	Circular regarding sanction of jewel loan
Ex.W37	03.10.2016	Appraisal report of Jewel Appraisers
Ex.W38	24.10.2016	Jewel loan processing fees entry
Ex.W39	24.10.2016	Jewel Appraisers fees
Ex.W40	22.11.2016	Order passed in W.A No.1564 of 2015
Ex.W41	04.02.2017	Communication of General Manager to all branches
Ex.W42	04.2017	Affidavit & W.P/No.10453/2017
Ex.W43	04.2017	Petition in WMP No.11328/2017
Ex.W44	25.04.2017	Order passed in WMP No.11328/17 in WP No.10453/17
Ex.W45	25.04.2017	Transfer of Jewel Appraiser
Ex.W46	04.05.2017	Contempt notice to General Manager
Ex.W47	07.05.2017	Letter from Petitioner to Respondent
Ex.W48	13.05.2017	Letter from Petitioner to Respondent
Ex.W49	29.06.2017	Letter from Appraiser K.G Sekar , Seelanaikanpatti branch, Salem
Ex.W50	07.07.2017	Circular regarding Jewel Appraisers meeting
Ex.W51	10.09.2017	Communication regarding meeting with Jewel Appraisers by Zonal Office Chennai south
Ex.W52	16.11.2017	Letter from Appraiser P.Anandan
Ex.W53		Letter from Appraiser A.B.Amirthalingam to Petitioner
Ex.W54	16.11.2017	Letter from Appraiser Ganesamn
Ex.W55	20.11.2017	Letter from Appraiser K.Swaminathan Thiruthuraipoondi
Ex.W56	04.12.2017	Performance rating
Ex.W57	20.12.2017	Auction notice
Ex.W58	09.01.2018	Letter from Petitioner to Respondent
Ex.W59	20.01.2018	Letter from Petitioner to Respondent
Ex.W60	09.03.2018	Letter from Appraiser T.C. Arulmozhi to the Petitioner

Ex.W61	13.03.2018	Letter from appraiser A.Krishnan to the Petitioner
Ex.W62	12.06.2018	Fixing target for Appraisers
Ex.W63	15.06.2018	Show cause notice to Mr.Chandramouli
Ex.W64	27.06.2018	Letter from Zonal Office to branch
Ex.W65	23.07.2018	Letter from Vigilance department to Mangalagiri branch
Ex.W66	21.08.2018	Circular of the Respondent
Ex.W67	03.09.2018	Representation made by Petitioner
Ex.W68	21.09.2018	Certificate regarding reappraisal from Velivennu branch
Ex.W69	27.10.2018	Representation of Petitioner to Zonal office, Chennai
Ex.W70	11.12.2018	Letter from Petitioner to Respondent
Ex.W71	28.12.2018	Interchange of Jewel Appraisers
Ex.W72	04.01.2019	Communication from Petitioner to respondent along with acknowledgement.
Ex.W73	20.01.2019	Representation regarding transfer of Panel Jewel Appraisers
Ex.W74	21.02.2019	Communication between Petitioner and PMO
Ex.W75	06.03.2019	Appeal under RTI Act
Ex.W76		Documents pertaining to Jewel Appraisers Harikesavan along with 6 documents
Ex.W77		Jewel loan control Registration records from Annanagar, Madurai and from Neelangarai, Chennai branches
Ex.W78		Jewel redemption register
Ex.W79		Jewel loan token register
Ex.W80		Follow up of jewel loan
Ex.W81	24.11.2010	Sample of Call Letter for Training Program at the Bank's Staff Training Program issued to jewel appraisers.
Ex.W82	08.08.2011	Empanelment Order issued to PW2.
Ex.W83	2013	Extracts from the Bank's Jewel Loan Closing Register maintained and filled in by Jewel Appraisers including PW2.
Ex.W84	2015	Extracts from Bank's Jewel Control Register maintained and filled in by PW2 in his own handwriting.
Ex.W85	2015	Samples of vouchers issued to Jewel Appraisers, towards local conveyance for visiting defaulting customers and attending Court on behalf of Bank
Ex.W86	2017	Samples of vouchers issued to Jewel Appraisers, towards local conveyance for visiting customers' residences and renewing D-11 Promissory Notes
Ex.W87	2017 to 2018	Samples of Final Notice of Recovery prepared by Jewel Appraisers including PW2 and issued to defaulting borrowers, along with postal receipt.
Ex.W88	2017 to 2018	Extracts from the Bank's Jewel Loan Disbursement Register with full details of borrowers, maintained by PW2.
Ex.W89	2018	Extracts from Auction Register maintained and filled in by PW2 in his own handwriting.
Ex.W90	18.09.2018	Sample of Loan Balance tallying done by PW2 at the time of account closure.

Ex.W91	2018-19	Samples of Jewel Loan Application Forms filled in on behalf of borrowers by Jewel Appraisers including PW2.
Ex.W92	03.05.2019	Sample of Jewel Packet Tag filled in by PW2 in his own handwriting for safekeeping in Bank lockers.
Ex.W93	05.09.2019	Samples of Jewel Loan Closing Vouchers filled in by PW2.
Ex.W94	Nov.2019	Bank Account Statement of PW2 indicating fees paid by the Respondent Bank for Jewel Verification.
Ex.W95	Nov.2019	Samples of Customer ID Cards filled in and issued by Jewel Appraisers.
Ex.W96	Nov.2019	Samples of Contra Vouchers filled in by Jewel Appraisers in their own handwriting.
Ex.W97	2019	Samples of Compliance Certificate filled in and co-signed by Jewel Appraisers including PW2 after 100% Verification of Jewel Packets.

On behalf of Respondent/Management : NIL

11. Heard the learned counsel appearing on either side and perused the material available on record.

12. The point that arises for determination is whether **Jewel Appraisers fall under the category of workmen of the Respondent Bank?**

13. It is argued on behalf of the learned counsel for the **Petitioner**

that Award in ID No.29/1979 was passed by this Tribunal in the matter of Workmen represented by the Secretary, Indian Bank Appraisers Association Vs. The General Manager, Indian Bank and this Tribunal had allowed the claim petition and directed the Respondent Bank to provide wages and other benefits of service applicable to regular clerk (Award staff) as part time employees of the bank w.e.f 01.04.1977. It is further stated that this Award was affirmed by the Hon'ble High Court of Madras. Therefore, it is submitted that the present workmen also entitled to get wages and other benefits as payable to regular clerk (Award Staff) as part-time employee of the bank.

14. The learned counsel appearing on behalf of the Appellant further relied on the case law in Management, Salem District Central Co-op.Bank Ltd. & Ors Vs. Inspector of Labour Authority & Ors (2018) 1 LLJ 117 / 2017 Supreme (Mad) 4237. In that case, the workmen were appointed as Jewel Appraisers in Salem District Central Co-operative Bank Ltd. which was several branches in Salem and Namakkal Districts. The workmen had been recruited by subjecting them to some kind of selection, continue in service uninterruptedly without any break and the work extracted from them was continuous and regular and they have completed more than 480 days of work within a period of two years and therefore, it was held that workmen had been appointed as staff and other workmen as that of regular employees under the Salem District Co-operative bank. However, they are sought to be treated differently for the purpose of denying them regular employment and the Hon'ble High Court endorsed the finding of the Inspector of Labour holding that these persons satisfied the definition of workman and thus, the Writ Petition filed by the Management was dismissed.

15. The learned counsel appearing on behalf of the Appellant relied on another case law in Andhra Bank, Salem Vs. Inspector of Labour and Another in W.P. 2423 of 1994 (1994) Supreme (Mad) 343. In that case, one Mr.G.Balasubramanian claiming to be employee of the bank filed claim petition No.4 of 1993 u/s.3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 before the Inspector of Labour, Salem, It was stated that he has completed 480 days during the period 01.09.1990 to 31.08.1992 i.e, to say 24 calendar months and therefore, he must be accorded permanent status. The Hon'ble High Court held that the employee of the bank can claim permanent status on completion of 400 days of service during the 24 calendar months.

16. The Petitioner further relied on the case law in Tamil Nadu Medical Services Corporation Ltd. Vs. Tamil Nadu Medical Services Corporation Employees Welfare Union & Another (2024) Live Law (SC) 402. In that case, the Corporation under the management of State of Tamil Nadu has employed various workmen in different capacities and such employees can sought regularization under the provisions of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The Hon'ble Court held that the establishment being covered under the definition of industrial establishment and the employees having continued in service for 480 days or more in 24 calendar months are entitled for permanent employment.

17. Now, I have to consider whether the Award passed by the Tribunal in ID No.29 of 1979 and the case laws cited hereinabove are applicable to the present set of employees?

18. In the ID No.29 of 1979 the Award was passed on 03.12.1979. The said Award was passed under the Scheme of the bank "System of engaging jewel loan appraisers on contract basis". The workmen were engaged on contract basis. But this system was dispensed with the bank with a new system of "Empanelling Valuers / Appraisers"

was introduced from the year April, 1983 and the present workmen were engaged under new system of 'Empanelling Valuers /Appraisers. Therefore, ratio of the Award passed by the Tribunal in ID No. 25 of 1979 dated 03.12.1979 cannot be applied to the present case on hand.

19. I have to discuss separate conditions of employment, if any, in the new scheme i.e, "Empanelling Valuers/Appraisers" in the further part of this Award.

20. In the case of Management, Salem District Central Co-op.Bank Ltd. & Ors Vs. Inspector of Labour Authority & Ors (supra) the workmen were appointed as Jewel Appraisers under recruitment project with a condition that they continued in service uninterruptedly without any break. But, in the present case on hand, the workmen/employees were not recruited by the bank under any scheme. Therefore, the said case law is not applicable to the facts of the present case on hand.

21. In the case of Andhra Bank, Salem Vs. Inspector of Labour (supra), the claimant Mr.Balasubramanian was an employee of the bank and sought permanent status under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. He had completed 480 days in 24 calendar months. The Hon'ble Court decided the question of jurisdiction and held that the 1st Respondent i.e., Inspector of Labour was having jurisdiction to entertain the claim petition. Therefore, this case law is also not applicable to the facts of the present case on hand.

22. In the case of Tamil Nadu Medical Services Corporation Ltd. Vs. Tamil Nadu Medical Services Corporation Employees Welfare Union & Another (supra), the main questions for consideration were –

(i) Whether the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, would apply to the parties? &

(ii) Whether by way of impugned judgement, the suggestion to institute industrial dispute claim, questioning non-employment was sustainable, given that Inspector of Labour has already passed order in that regard?

The Hon'ble Court held that the establishment being covered under the definition of Industrial Establishment as provided and that that all employees having uninterruptedly continued in service for more than 480 days or more in 24 months, they were entitled for permanent status. Therefore, this case law is also not applicable to the facts of the present case on hand.

23. Now I have to consider whether the members of the Petitioner association can be considered as workmen engaged by the Respondent Bank?

24. It is an admitted fact that the members of the Petitioner association were engaged under new scheme passed by the Respondent Bank in the name of "Empanelling Valuers / Appraisers" from April ,1983. It is argued on behalf of the Petitioner that this scheme was introduced to deny the legal rights of the jewel appraisers in denying similar treatment to the employees of the bank as well as possibility of the future absorption in the Respondent/Bank.

25. It is argued on behalf of the Respondent/Bank that Jewel Appraisers received their fees/commission from the customers and they are not on the pay rolls of the Respondent/Bank. They are free to perform any private work and there is no transfer policy introduced for Jewel Appraisers of the bank. The empanelled Jewel Appraisers may attend another branch, but this act does not come under the policy of transfer. There is no control of the bank over the Jewel Appraisers. The members of the Jewel Appraisers association are not paid fee/remuneration by the Respondent/Bank. The workmen were not appointed by the Respondent/Bank, but they are empanelled by the Respondent/Bank to perform as gold valuer / appraisal work. The Jewel Appraisers may work for several branches of the bank. The Jewel Appraisers receive fees for valuation from the customer and not salary from the Respondent/Bank.

26. During the course of enquiry, the General Secretary of the Petitioner Association was produced as witness – WW1 on behalf of the Petitioner association. In his oral evidence, he admitted that fee is paid by the customer to the Jewel Appraisers.

The exact relevant part of his oral evidence runs as under:-

"The cost of the valuation of the jewellery is paid by the concerned loan borrowers. Per day each appraiser was getting Rs.50/- to Rs.600/- for appraisal of jewels.....

With reference to attendance, supervision and control over the Jewel Appraisers, the witness stated as under:-

"No attendance register was maintained in the bank for Jewel Appraisers....

It is a fact that I am not produced any document to substantiate that the Respondent/Bank has paid any amount other than the cost paid by borrowers to the Jewel Appraisers. ....

Except fees paid by the borrowers, nothing is paid by the Respondent/Bank.

... The clerks in the bank are appointed through selection process through competitive examination. ...

The appraisers are paid only by fees received from borrowers of loan. The bank never pay remuneration / wage to any of the Jewel Appraisers. ....

The commission is paid out of the amount of loan disbursed in favour of loanee."

27. From the above evidence of WW1, the General Secretary of the Association it is clearly an admitted /established fact that Jewel Appraisers are paid fee / commission from the loan borrowers and nothing is paid by the Respondent/Bank .

28. On perusal of records submitted by the Petitioner association, there is no single document on record which may suggest that members of the Petitioner association were issued with appointment letter or they were appointed by the Respondent/Bank. No salary was paid by the Respondent/Bank to the Jewel Appraisers. No PF or ESI was deducted from the Jewel Appraisers. The Jewel Appraisers were not governed by Respondent/Bank's disciplinary rules. No identity card was issued to the Jewel Appraisers by the bank.

29. The Petitioner association in its claim statement specifically admitted that the bank had introduced scheme of empanelment and the Respondent/Bank also admitted that some Jewel Appraisers were empanelled by the bank. It is argued on behalf of the Respondent that empanelment is the process by which a person or institute is selected and included in the approved panel of persons. Therefore, members of the association are not employees of the bank. It is true that empanelment means that bank has selected and approved some persons to perform appraisal of jewellery or valuation work in the bank. Thus, the process by itself does not mean that appraiser is an employee or workman of the bank.

30. In the case of General Manager, Indian Overseas Bank Vs. Workmen of Indian Overseas Bank Association (2006) MANU SC 1367, the full Bench of the Hon'ble Supreme Court held that Jewel Appraisers for loans are not workmen of the bank. The Hon'ble Supreme Court provided the distinction between the jewel appraiser and regular workmen in para 15 of its order and concluded that Jewel Appraisers are not employees of the bank.

31. As per discussion above and in light of the judgement delivered by the Full Bench of the Hon'ble Supreme Court cited supra, it can be concluded that persons engaged in the panel of the bank as Jewel Appraisers are not workmen of the Respondent/Bank and therefore, they are not entitled to get absorption or regularization in the Respondent/Bank.

AWARD

In view of the above discussion, the industrial dispute raised by the Petitioner association is dismissed. Ordered accordingly.

Record be consigned to the record room.

Place : CHENNAI SUSHIL KUMAR-II, Presiding Officer

Date : 10.08.2026

नई दिल्ली, 28 अगस्त, 2026

का.आ. 1982.—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 gnjkckn के पंचाट (241/2001) प्रकाशित करती है।

[सं. एल-12012/163/2001-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.241/2001*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/163/2001–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of April, 2026

INDUSTRIAL DISPUTE No. 241/2001

Between:

Sri Y. Nageswara Rao,

R/o H.No. 6-3-158,

Shivarampally,

N.P.A (Post),

Hyderabad.

. … Petitioner

And

The Assistant General Manager,

State Bank of India,

(Personnel & HRD Department)

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095.

…..Respondent

Appearances:

For the Petitioner : M/s. V. Mallik, K. Shankar Rao, M. Madhusudhan & Galaiah Velugu, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/163/2001-IR(B.I) dated 03.10.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri Y. Nageswara Rao, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 241/2001 and notices were issued to both the Workman and the management.

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

aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

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

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

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

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

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

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

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

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 for the from 1986 to 1997 and rendered unblemished service spreading over a period of about 11 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment ti1l 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 W14, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 Y. Nageswara Rao, a Temporary/Messenger with effect from 31.3.1997 is justified?

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

Findings:-

17. **Issue No.I**:- The Workman alleged that Respondent has terminated his services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof illegally. Further, he alleges that he has been terminated from service in violation of provision contained under Section 25 F of I.D. Act, 1947 and same is liable to be set aside.

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

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

(a) voluntary retirement of the workman; or

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

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

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

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

Section 25F provides:-

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

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

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

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

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service which provides

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

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

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

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

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

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

Thus, in view of the above provision, Workman has to prove that he had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of his termination i.e., 31.3.1997. It is settled law that the initial burden of proof to prove the fact of 240 days of service in the 12 months of a calendar

year just preceding from the date of termination, lies upon the Workman and he is duty bound to prove this factum by adducing oral as well as documentary evidence in support of his claim.

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

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

"It was the case of the Workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

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

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

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

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

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

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

19. Thus, in view of the law laid down by Hon'ble Apex Court as discussed above in respect of calculating the 240 days continuous service by workman as per provision under Section 25-F read with Section 25-B of the I.D. Act, 1947, we have to examine whether Workman herein has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., 31.3.1997 by his evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined himself as WW1 and in his oral testimony WW1 has stated that he joined the service of Respondent at Khatedan, Branch, SBI R.R

District on 11.7.1986 as a Messenger and worked continuously in various branches depending upon the availability of work and also as per the orders of bank officers till 31.3.1997. WW1 states that the Respondent has not given any advance notice to him before his termination and has not obtained prior permission from central government for his retrenchment and Respondent has not given him any order of termination. Further, WW1 states that he had worked Main branch of the Respondent and Ex.W1 is the Service certificate for 83 days for the period of July 1986 to December 1986 dated 13.04.1987. Ex. W1A is the Service Certificate dated 31.03.1997. Ex. W2 is the Notification. Ex. W3 is the interview call letter. Ex. W4 is the panel list. Ex.W5 is the Service Certificate for 152 days for the period of December 1989 to May 1990 dated 10.07.1990. Ex. W6 is the Service certificate dated 22.07.1994. Ex. W7 is the Service certificate dated 10.01.1988. Ex. W8 is the Service certificate dated 30.05.1994. Ex. W9 is the Service certificate dated 04.04.1997. Ex. W10 is the Service certificate dated 4.04.1997. Ex. W11 is the Service certificate dated 27.3.1997. Ex. W12 is the Service certificate dated 4.04.1997. Ex.W13 is the letter to Employment exchange. Ex. W14 is the Ex-Temporary employees Inspection and Audit Report.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 190 days continuously during the period from April, 1996 to October, 1996, Ex.W11 is the certificate in this regard. Lastly, he had worked for 154 days from October, 1996 to March, 1997. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis in the year 1986 for a period of 92 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
April,1996	15
May, 1996	29
June, 1996	30
July, 1996	31
August, 1996	30
September, 1996	30
October, 1996	29 (25 +4)
November, 1996	29
December, 1996	31
January, 1997	31
February, 1997	28
March, 1997	31

Thus, sum of working days as shown in the above table is 344 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 2 separate spells in a period of one year. He worked for 190 days continuously during the period from April, 1996 to October, 1996, at Old Malakpet branch. Ex.W11 is the certificate in this regard. Lastly, he had worked for 154 days at International Banking Division, Hyderabad from October, 1996 to March, 1997. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1986 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 10 years and artificial breaks in the employment of Petitioner has been created by the Respondent

intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

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

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

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

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

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

……

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

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

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

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

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

"The underlying object of Section 25-F is twofold. Firstly, a retrenched employee must have one month's time available at his disposal to search for alternate employment, and so, either he should be given one month's notice of the proposed termination or he should be paid wages for the notice period. Secondly, the workman must be paid retrenchment compensation at the time of retrenchment, or before, so that once having been retrenched there should be no need for him to go to his employer demanding retrenchment compensation and the compensation so paid is not only a reward earned for his previous services rendered to the employer but is also a sustenance to the worker for the period which may be spent in searching for another employment. Section 25-F nowhere speaks of the retrenchment

compensation being paid or tendered to the worker along with one month's notice; on the contrary, clause (b) expressly provides for the payment of compensation being made at the time of retrenchment and by implication it would be permissible to pay the same before retrenchment. Payment or tender of compensation after the time when the retrenchment has taken effect would vitiate the retrenchment and non-compliance with the mandatory provision which has a beneficial purpose and a public policy behind it would result in nullifying the retrenchment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments shall be made accordingly. From the date of discharging the duties attached to the post the

incumbent becomes a member of the services. Appointment on daily wage basis is not an appointment to a post according to the Rules.

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

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

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 10 years i.e., from 1986 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

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

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

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the respondent bank in different spells from 13th August 1987 till 31st March 1997. But the respondent has terminated his services without assigning any valid reason. Further, it is alleged that respondent has retained his juniors in his services and respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in

respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

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

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 6th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Y. Nageswara Rao	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate dated 13.04.1987
Ex. W1A:	Photocopy of Service Certificate dated 31.03.1997
Ex.W2:	Photocopy of Notification
Ex.W3:	Photocopy of interview call letter
Ex.W4:	Photocopy of Panel list
Ex.W5:	Photocopy of Service certificate dated 10.07.1990
Ex.W6:	Photocopy of. Service certificate dated 22.07.1994
Ex.W7:	Photocopy of Service certificate dated 10.01.1988
Ex.W8:	Photocopy of Service certificate dated 30.05.1994
Ex.W9:	Photocopy of Service certificate dated 04.04.1997
Ex.W10:	Photocopy of Service certificate dated 04.04.1997
Ex.W11:	Photocopy of Service certificate dt.27.3.1997
Ex.W12:	Photocopy of Service certificate dated 04.04.1997
Ex.W13:	Photocopy of Employment exchange
Ex.W14:	Photocopy of Ex-Temporary employees Inspection and Audit Report

Documents marked for the Respondent

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 28 अगस्त, 2026

का.आ. 1983.—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 gnjkckn के पंचाट (57/2002) प्रकाशित करती है।

[सं. एल-12012/260/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 57/2002*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/260/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 15th day of April, 2026

INDUSTRIAL DISPUTE No. 57/2002

[Old ID No.148/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri N. Nanda Babu,
S/o N. Satyanarayana,
SRT, 283
Sanath Nagar,
Hyderabad-34.

. … Petitioner

And

The Assistant General Manager,
State Bank of India,
(Personnel & HRD Department)
Local Head Office,
Bank Street, Koti,
Hyderabad – 500 095. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/260/2000-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.148/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri N. Nanda Babu, Temporary Messenger, by way of oral orders with effect from 31.3.1997 is justified? If not, what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 57/2002 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1986 to 1997 and rendered unblemished service spreading over a period of about 11 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

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

5. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for absorption and permanent appointments. Various discussions were held to resolve the said issue, resulting in five settlement agreements between the Bank and the Workmen.

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

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

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

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

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

> *"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which, is the majority union and the bank Management is binding on the Workmen also. It is not at all the case of the Workman that any of the terms of the settlement has been violated by the bank's Management. If the Workman had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that*

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

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

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

13. The Workman (WW1) filed and relied on documents Ex.W1 to W13, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 N. Nanda Babu, 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 PBD Main Branch, SBI Hyderabad on 10.9.1986 as a Messenger and worked for a period of 55 days Ex.W1 is the certificate and he 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 Main branch of the Respondent and Ex.W1 is the Service certificate for 55 days for the period from 10.9.1986 to 22.11.1986 dated 18.7.92. Ex.W2 is the Notification. Ex. W3 is the interview call letter. Ex. W4 is the panel list. Ex.W5 to Ex. W11 are the Service certificates dt. 1.8.93, 7.1.97, 26.12.96, 27.12.96, 19.3.96, 7.1.97 and 24.5.97 respectively. Ex. W12 is the the letter to Employment exchange. Ex.W13 is the Ex-Temporary employees Inspection and Audit Report.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 190 days continuously during the period from June, 1996 to December, 1996, Ex.W10 is the certificate in this regard. Lastly, he had worked for 71 days from 16.1.97 to 31.3.1997. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis in the year 1986 for a period of 55 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
June, 1996	23
July, 1996	31
August, 1996	31
September, 1996	30
October, 1996	31
November, 1996	30

December, 1996	14
January-March, 1997	71
Total	261

Thus, sum of working days as shown in the above table is 261days 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 2 separate spells in a period of one year. He worked for 190 days continuously during the period from June, 1996 to December, 1996. Ex.W10 is the certificate in this regard. Lastly, he had worked for 71 days from January, 1997 to March, 1997. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1986 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 10 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

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

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

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

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

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

……..

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

there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24. This Court in a large number of decisions opined that payment of adequate amount of compensation in place of a direction to be reinstated in service in cases of this nature would subserve the ends of justice. (See Jaipur

Development Authority v. Ramsahai [(2006) 11 SCC 684], M.P. Admn. v. Tribhuban [(2007) 9 SCC 748] and Uttaranchal Forest Development Corpn. v. M.C. Joshi [(2007) 9 SCC 353])

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

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

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

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

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

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

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

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 10 years i.e., from 1986 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the nature of appointment and period of his employment and in the facts and circumstances of the case the award of compensation instead of direction for reinstatement in the service would be appropriate relief and that will subserve the end of justice. Thus, in view of the above the Workman in this case is entitled for compensation instead of direction for reinstatement into service.

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

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

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the Respondent bank in different spells from 10.9.1986 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri N. Nanda Babu, 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 15th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri N. Nanda Babu	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate dated 18.7.92
Ex.W2:	Photocopy of Notification
Ex.W3:	Photocopy of interview call letter
Ex.W4:	Photocopy of Panel list
Ex.W5:	Photocopy of Service certificate dated 1.8.93
Ex.W6:	Photocopy of. Service certificate dated 7.1.97
Ex.W7:	Photocopy of Service certificate dated 26.12.96
Ex.W8:	Photocopy of Service certificate dated 27.12.96
Ex.W9:	Photocopy of Service certificate dated 19.3.96
Ex.W10:	Photocopy of Service certificate dated 7.1.97
Ex.W11:	Photocopy of Service certificate dt. 24.5.97

Ex.W12: Photocopy of the letter to Employment exchange

Ex.W13: Photocopy of Ex-Temporary employees Inspection and Audit Report

Documents marked for the Respondent

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

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

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

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

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 28 अगस्त, 2026

का.आ. 1984.—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 gnjkckn के पंचाट (150/2002) प्रकाशित करती है।

[सं. एल-12012/50/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 150/2002*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/50/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 23rd day of March, 2026

INDUSTRIAL DISPUTE No. 150/2001

Between:

Sri M. Suraiah,

5/5, Mannanur,

Amarambad(M)

Distt. Mahaboobnagar(A.P)

Alapuzha (Kerala).

… Petitioner

And

The General Manager,
State Bank of India,
Local Head Office,
Bank street Koti,
Hyderabad

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L12012/50/2000-IR(B.I) dated 06.07.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 to Industrial Tribunal No.I, Hyderabad for adjudication and later the same has been transferred to this Tribunal bearing ID No. 36/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001- IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

SCHEDULE

"Whether the action of the State Bank of India, Mannanur Branch in terminating Sri M. Suraiah, Sweeper from the services of the Bank is justified? If not, what relief he is entitled?"

After receipt of the reference, it was numbered as ID No. 150/2001 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement are that, the he joined the service of the Respondent Bank at Agricultural Development branch, kadri and he worked dring 3.06.1985 to 16.04.1987 for 175 days as a messenger in the said branch. Later he was provided with work at the same branch in the same capacity during 14.07.1991 to 31.05.1995 for 766days. Then he was provided with work at Industrial Finance branch Raj Bhavan Road, Somjiguda, Hyderabad during January, 1996 to July, 1996 in the first spell as a Messenger, for 180 days. Thereafter he was provided with work at Red Hills branch Hyderabad during 16.07.1996 to 31.12.1996 for 164 days as a messenger. Thereafter the Petitioner was assigned with the work as Messenger at Industrial Finance branch, Somjaiguda, Hyderabad in the second spell during January, 1997 to March, 1997 for 85 days. It is submitted that the services of the Petitioner were terminated suddenly on 31.03.1997 without assigning any valid reasons, and the said orders were verbal in nature. The Petitioner submits that his last drawn salary was Rs. 2,500/- per month approximately. 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 Sri K. Devender as WW2. He has also filed documents in evidence which has been exhibited as Ex.W1 to W4. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the Service certificate dated 01.06.1988. Further Ex.W2 is the Service Certificate dated 28.12.1995. Ex.W3 is the Service Certificate dated 29.03.1997. Ex.W4 is the Service Certificate 01.08.1997.

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 branch in terminating the services of Workman Sri K. Ramanjaneyulu, 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….

"It is not true to say that I did not work for 240 days in any of the years I worked in the bank."

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

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

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

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

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

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

condition of 240 days of continuous service as required under Sec.25F of I.D. Act, 1947. Therefore, the disengagement of Workman from work can not be termed in contravention of provision contained under Sec.25F and 25 B of the I.D. Act, 1947.

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

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

36. On the other hand, Respondent has contended that the Federation approached Regional Labour Commissioner (Central) for implementation of bipartite settlement in respect of the absorption of temporary employees. The Regional Labour Commissioner (Central) conducted conciliation proceedings and agreement was arrived at between the Federation and the Management bank. It is submitted that it was agreed between the Federation and the Management that both the panels of temporary employees and daily wagers /casual labour would be kept alive upto March, 1997 and the vacancies as agreed to under the afore set out settlements will be filled from both the lists concurrently. A copy of the conciliation proceedings dated 9.6.1995 signed by the parties to the dispute is filed as a material paper. Further, it is submitted that the settlement was arrived at and an agreement was signed between the Federation and the Management bank on 30.7.1996 under Section 2(p) read with Section 18(1) of the Industrial Disputes (Central) Rules 1957 which is binding on the parties. A copy of this agreement which hereinafter may be referred to as 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 did not give any application pursuant to any employment notification for the purpose of engagement as a temporary messenger in the bank.

Further, witness states, *It is true that panel was prepared basing upon the number of days of service put in by each temporary messenger in the order of seniority.. It is not true to say that the vacancies were filled up in the order of seniority. ....* Further witness states, *I am not having any details or proof to show that the persons who worked for less no. of days were given appointment in the bank."*

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

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on

31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This point is answered against the Workman.

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

This Point is answered accordingly.

AWARD

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

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 27th day of February, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Ramanjaneyulu	MW1: Sri Aluru Rama Rao
WW2: Sri K. Devender	

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service certificate dated 01.06.1988
Ex.W2:	Photocopy of Service Certificate dated 28.12.1995
Ex.W3:	Photocopy of Service Certificate dated 29.043.1997
Ex.W4:	Photocopy of Service Certificate 01.08.1997

Documents marked for the Respondent

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

नई दिल्ली, 28 अगस्त, 2026

का.आ. 1985.—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 gnjkckn के पंचाट (75/2002) प्रकाशित करती है।

[सं. एल-12012/335/2001-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1985.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 75/2002*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/335/2001–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 15th day of April, 2026

INDUSTRIAL DISPUTE No. 75/2002

Between:

Sri K. Srinivas,

S/o Sri K. Venkatesh,

H.No.7/7, Type-I, Air Force Academy,

Hyderabad-500 043.

. … Petitioner

And

The Assistant General Manager,

State Bank of India,

(Personnel & HRD Department)

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/335/2001-IR(B.I) dated 17.1.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri K. Srinivas, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 75/2002 and notices were issued to both the Workman and the management.

2. Before unfolding the factual matrix of the instant industrial dispute it would be apposite to have a bird eye view of a chequered history of the instant industrial dispute. Earlier instant industrial dispute along with the batch cases was decided by this Tribunal vide common award dated 17.5.2005 and the reference was answered in favour of the Respondent and against the Workman. That said common award dated 17.5.2005 was challenged by the aggrieved Workmen in various Writ petition No.6470/2014 along with batch of writ petitions before the Hon'ble High Court of Andhra Pradesh and Hon'ble High Court vide its' judgement dated 23.6.2014 allowed all batch of writ petitions and set aside the common award dated 17.5.2005 passed in ID No.222 of 2001 and other batch of ID cases by Central

Government Industrial Tribunal cum Labour Court, Hyderabad and the Respondent management of State Bank of India was directed to reengage the Writ Petitioners in position, which they have been occupying prior to their termination and further directed to consider their cases for regularization as and when the substantive vacancy arises. This judgement dated 23.6.2014 of Hon'ble High Court of AP, passed in WP No.6470/2014 and batch petitions was challenged by Respondent management before the Hon'ble High Court in Writ Appeal No. 1268 of 2014. The aforesaid Writ Appeals No.1268/2014 and other Writ Appeals were decided by Division Bench of High Court of Andhra Pradesh by a common judgement dated 20.3.2019. Hon'ble High Court in aforesaid Writ Appeal was pleased to pass the order which is extracted as below:-

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1985 to 1997 and rendered unblemished service spreading over a period of about 8 years. It is submitted that the services of the Petitioner were terminated with verbal orders dt. 31.03.1997 without assigning any valid reasons. But the Respondent has retained Petitioner's juniors in service. The Respondent has failed to take the prior permission from the government for his retrenchment. It is submitted that he could not secure any alternative employment till date inspite of his best efforts. It is submitted that there is sufficient work with the Respondent and extending the opportunities to others denying the Petitioner is unjust and contrary to law. Hence, the action of the Respondent is not justified. Therefore, it is prayed to grant the relief of reinstatement with full back wages and all attendant benefits.

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

5. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force as its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any protection under Industrial Disputes Act, 1947 to give a chance for being considered for

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

6. The first settlement dated 17.11.1987 (under Sec. 2(p) r/w Sec. 18(1) of the ID Act) categorized temporary employees and provided for consideration of permanent absorption against vacancies between 1987–1991. The second settlement dated 16.07.1988 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 W15 including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, and produced 12 documents (Ex.M1–M12), including all five settlements, panel details, and judgments of the Hon’ble High Court and Supreme Court, conclusively supporting the Bank’s position.

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

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

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

I. Whether the action of State Bank of India, Local Head Office, Hyderabad in terminating the services of Workman Sri K. Srinivas, 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 Air Force Academy Branch, State Bank of India, Hyderabad on 13.10.1985 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 Air Force Academy branch of the Respondent and Ex.W1 is the Service certificate for 74 days for the period of 13.10.85 to 31.12.85 dated 21.2.1986. Ex. W2 is the Notification. Ex. W3 is the interview call letter. Ex. W4 is the panel list. Ex.W5 to Ex.W13 are service certificates dated 13.5.91, 1.1.92, 24.7.93, 26.7.94, 7.2.95, 3.7.96, 3.4.97, 2.4.97 and 15.4.97 respectively. Ex.W14 is the letter to Employment exchange. Ex. W15 is the Ex-Temporary employees Inspection and Audit Report.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 193 days continuously during the period from 23.3.1996 to 6.10.1996, Ex.W12 is the certificate in this regard. Lastly, he had worked for 172 days from 7th October, 1996 to 31st March, 1997. 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 1985 for a period of 74 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
23.3.1996 to 6.10.1996	189{193-9 days of March, 1996}
7.10.1996 to 31.3.1997	172
Total	361

Thus, sum of working days as shown in the above table is 361 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service.

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

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

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

"52. I have independently assessed the entire oral and documentary evidence adduced before the Labour Court in these cases and upon analysis of the same, I have come to a firm conclusion that in hundreds of cases, the present Respondent has created a farcical picture by posing that the work allotted to the temporaries was limited only to the

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

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

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

24. Perused the record. Petitioner witness WW1 in his statement in chief has categorically stated that he had worked for more than 240 days continuously in 2 separate spells in a period of one year. He worked for 189 days (193- 9 day of March, 1996=189) continuously during the period from April, 1996 to October, 1996, at Saifabad branch. Ex.W12 is the certificate in this regard. Lastly, he had worked for 172 days at C & I Division, Hyderabad Main Branch from October, 1996 to March, 1997. 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 1985 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 8 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

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

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

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

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

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

……..

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

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

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

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

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

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

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

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

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

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

vide oral order dated 31.3.1997 by the Respondent is in contravention of the provision contained under Section 25-F of the I.D. Act, 1947 and is illegal and not justified and liable to be set aside.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 8 years i.e., from 1985 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 1985 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 13.10.1985 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri K. Srinivas, 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 15th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service Certificate dated 21.2.1986
Ex.W2:	Photocopy of Notification
Ex.W3:	Photocopy of interview call letter
Ex.W4:	Photocopy of Panel list
Ex.W5:	Photocopy of Service certificate dated 13.5.91
Ex.W6:	Photocopy of. Service certificate dated 1.1.92
Ex.W7:	Photocopy of Service certificate dated 24.7.93
Ex.W8:	Photocopy of Service certificate dated 26.7.94
Ex.W9:	Photocopy of Service certificate dated 7.2.95
Ex.W10:	Photocopy of Service certificate dated 3.7.96
Ex.W11:	Photocopy of Service certificate dt. 3.4.97
Ex.W12:	Photocopy of Service certificate dated 2.4.97
Ex.W13:	Photocopy of Service certificate dated 15.4.97
Ex.W14:	Photocopy of the letter to Employment exchange
Ex. W15:	Photocopy of the Ex-Temporary employees Inspection and Audit Report.

Documents marked for the Respondent

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

नई दिल्ली, 28 अगस्त, 2026

का.आ. 1986.—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 gnjkckn के पंचाट (47/2001) प्रकाशित करती है।

[सं. एल-12012/450/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 47/2001*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/450/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of April, 2026

INDUSTRIAL DISPUTE No. 47/2001

Between:

Smt. S. Renuka Devi,

W/o Ghanshyam,

Plot No.20, Street No.2,

Bhavani Nagar,

Nacharam

Hyderabad.

. … Petitioner

And

The Assistant General Manager,

State Bank of India,

(Personnel & HRD Department)

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095.

…..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/450/2000-IR(B.I) dated 7.6.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Smt. S. Renuka Devi, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 47/2001 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in her claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1990 to 1997 and rendered unblemished service spreading over a period of about 7 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 her retrenchment. It is submitted that he could not secure any alternative employment till date inspite of her 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 W11, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 Smt. S. Renuka Devi, 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 her services by oral order on 31.3.1997 without issuing any notice or paying any salary or compensation in lieu thereof illegally. Further, she alleges that she 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 she 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, she 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 she had worked with Respondent continuously for 240 days uninterruptedly in 12 months of a calendar year just preceding from data of her 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 she is duty bound to prove this factum by adducing oral as well as documentary evidence in support of her 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 her claim of 240 days continuous service in a calendar year just preceding from the date of her termination i.e., 31.3.1997 by her evidence.

20. In order to corroborate the averments made in claim statement, Petitioner has examined herself as WW1 and in her oral testimony WW1 has stated that she joined the service of Respondent at Nacharam Industrial Area Branch, on 10.1.1990 as a sweeper cum water woman 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 her before her termination and has not obtained prior permission from central government for her retrenchment and Respondent has not given her any order of termination. Further, WW1 states that she had worked in the branches of the Respondent, and documents marked by WW1 are as follows: Ex.W1 is the transfer certificate. Ex. W2 is the caste certificate. Ex. W3 is the service certificate. Ex. W4 is the interview call letter. Ex.W5 is the panel list. Ex. W6 is the Service certificate dated 2.3.93. Ex. W7 is the Service certificate dated 13.12.1993. Ex. W8 is the Service certificate dated 18.8.95. Ex. W9 is the Service certificate dated 11.04.1997. Ex. W10 is the payment cheque dated 27.3.1997. Ex. W11 is the Service certificate dated 16.2.2000.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and she worked for 184 days continuously at Nacharam branch during the period from 19.6.1996 to 5.1.1997, Ex.W9 is the certificate in this regard. Lastly, she had worked for 77 days from January, 1997 to March, 1997. Further, WW1 states that there were no complaints against her from any customers or officers of the

Respondent throughout the period of her service. This Witness was cross examined by the Respondent counsel and in her cross examination the WW1 states that she was given appointment as a messenger on temporary basis for a period of 89 days. Further, witness states that she was not sponsored by any employment exchange. Further, witness states that she did not work continuously and she 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 she did not work for 240 days in any year in her service.

Month	Working days
June, 1996	15
July, 1996	30
August, 1996	24
September, 1996	27
October, 1996	27
November, 1996	28
December, 1996	29
January, 1997	27(4+23)
February, 1997	25
March, 1997	29
Total	261

Thus, sum of working days as shown in the above table is 261 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 her appointment letter during the total period of about 7 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 her 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 her 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 her 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 her under the provision of Industrial Disputes Act, 1947.

24. Further, the Petitioner in support of her claim has also examined witness Sri C. Yadagiri as WW2 and the witness in his chief statement has stated that the Petitioner was terminated from the service by oral order of the Respondent on 31.3.1997. Witness further states that though work was available the Respondent employed new persons and terminated the services of the Petitioner. Thus, this witness WW2 has also corroborated the averments made by the Petitioner. This WW2 was cross examined but nothing is elicited to discredit the testimony of this witness or to make the witness unbelievable. Thus, the averments of the Petitioner also corroborated by the Statement of WW2.

25. On the other hand, Respondent in evidence has examined MW1 witness Sri Aluru Rama Rao who has reiterated the contention made in the counter regarding engagement of working days of the Workman. He has stated that there is a procedure for appointment of messengers/non-messengers in the bank on regular basis. Petitioner was not sponsored by any employment exchange. He did not undergo the regular process of selection required for appointment as a regular messenger. The Petitioner has not worked for 240 days in any year in her entire temporary service in the bank. The Petitioner and other temporary employees were not terminated from service by the bank. 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. Further, this witness was cross examined by the Petitioner Counsel and in his cross examination witness MW1 states that he do not know the Petitioner individually and he did not give any appointment order either temporarily casually or whatever it is in the capacity of Personnel Officer Zonal office, Hyderabad module. Further, witness states in cross examination that since they are casual and temporary Workers they were not appointed after 31.3.1997 as all available vacancies were filled in by that time with the available panels. As there were no available vacancies and the panels were lapsed hence, the bank could not absorb any of these people in a regular basis. The Learned Counsel for Respondent has further contended that the Petitioner witness WW1 in her statement has admitted that he has not completed 240 days in any year therefore her termination from employment is not in contravention of the provision of section 25 F.

26. Perused the record. Petitioner witness WW1 in her statement in chief has categorically stated that she had worked for more than 240 days continuously in 3 separate spells in a period of one year. She worked for 184 days continuously at Nacharam branch during the period from 19.6.1996 to 5.1.1997, Ex.W9 is the certificate in this regard. Lastly, she had worked for 77 days from January, 1997 to March, 1997. Whereas in the cross examination witness WW1 stood firm in respect of her 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 she had never worked for 240 days in any year as stated by her. 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 her 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 7 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 her services were terminated by the employer. The Respondent management, according to Petitioner, no notice or compensation in lieu thereof, was given for terminating her 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.

27. **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.

28. 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 7 years i.e., from 1990 to 1997 in the Respondent employment in different spells. Therefore, keeping in view the nature of appointment and period of her 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.

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

30. 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 her empanelment in the waiting list for regularization. Therefore, the petitioner is entitled for regularization in the service of the management.

31. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the respondent bank in different spells from 1990 till 31st March 1997. But the respondent has terminated her services without assigning any valid reason. Further, it is alleged that respondent has retained her juniors in her 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:-

"provide me the relief of reinstatement with full back wages, continuity of service and all other attendant benefits including damages compensation and costs of the litigation."

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 Smt. S. Renuka Devi, 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 6th day of April, 2026.

IRFAN QAMAR,Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Smt. S. Renuka Devi	MW1: Sri Aluru Rama Rao
WW2: Sri C. Yadagiri	

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 interview call letter
Ex.W5:	Photocopy of the panel list
Ex.W6:	Photocopy of Service certificate dated 2.3.93
Ex.W7:	Photocopy of Service certificate dated 13.12.1993
Ex.W8:	Photocopy of the Service certificate dated 18.8.95
Ex.W9:	Photocopy of the Service certificate dated 11.04.1997
Ex.W10:	Photocopy of payment cheque dated 27.3.1997
Ex.W11:	Photocopy of Service certificate dated 16.2.2000

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, 28 अगस्त, 2026

का.आ. 1987.—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 gnjkckn के पंचाट (246/2001) प्रकाशित करती है।

[सं. एल-12012/176/2001-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 28th August, 2026

S.O. 1987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 246/2001*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/176/2001–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 6th day of April, 2026

INDUSTRIAL DISPUTE No. 246/2001

Between:

Sri C. Anil Kumar,

S/o C.V. Rajeswar Rao,

R/o 16-6-599, Osmanpura,

Chaderghat,

Hyderabad.

… Petitioner

And

The Assistant General Manager,

State Bank of India,

(Personnel & HRD Department)

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095. …..Respondent

Appearances:

For the Petitioner : Sri M. Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/176/2001-IR(B.I) dated 16.10.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri C. Anil Kumar, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 246/2001 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

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 as Messenger on 1987 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 effect from 1.4.1997. It is submitted that Respondent has terminated the services of Petitioner on 31.3.1997 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 W11, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 C. Anil Kumar, 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 Main Branch SBI, Hyderabad on 12.8.1987 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 Hyderabad Main branch of the Respondent and Ex.W1 is the Service certificate for 53 days period of 12.8.1988 to 17.10.1988. Ex. W2 is the Notification. Ex. W3 is the call letter for interview. Ex. W4 is the panel list. Ex. W5 is the Service certificate for 197 days period of 08.03.1993 to 11.10.1993. Ex. W6 is the Service certificate for 197 days period of 15.11.1994 to 05.11.1994 dated 08.11.1994. Ex. W7 is the Service certificate for 197 days from 01.06.1995 to 16.12.1995 dated 03.04.1997. Ex. W8 is the Service Certificate for 197 days for the period 17.06.1996 to 3.1.1997 dt. 03.04.1997. Ex. W9 is the Service certificate dated 26.05.1997. Ex. W10 is the Employment exchange notification. Ex. W11 is the audit report dated 14.07.1999.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 197 days continuously during the period from17.6.1996 to 3.1.97 at Personal Banking Division, Main branch and Ex.W8 is the concerned certificate. Lastly, he had worked for 75 days from January to March, 1997, Ex.W9 is the service certificate. 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 on 12.8.87 for a period of 53 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service. Further, witness states that it is not true to say that he never worked for 240 days in any year in his service as stated by him.

Month	Working days
17.6.1996 to 3.1.97	197
January to March, 1997	75
Total	262

Thus, sum of working days as shown in the above table is 262 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 2 separate spells in a period of one year. He had worked for 197 days continuously during the period from17.6.1996 to 3.1.97 at Personal Banking Division, Main branch and Ex.W8 is the concerned certificate. Lastly, he had worked at Kattedan branch for 75 days from January to March, 1997, Ex.W9 is the service certificate. 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 13th August 1987 till 31st March 1997. But the respondent has terminated his services without assigning any valid reason. Further, it is alleged that respondent has retained his juniors in his services and respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri C. Anil Kumar, 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 6th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri C. Anil Kumar	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of Notification
Ex.W3:	Photocopy of call letter for interview
Ex.W4:	Photocopy of panel list
Ex.W5:	Photocopy of Service certificate dt. 15.10.93
Ex.W6:	Photocopy of Service certificate dt. 08.11.1994
Ex.W7:	Photocopy of Service certificate dt. 03.04.1997
Ex.W8:	Photocopy of Service certificate dt. 03.04.1997
Ex.W9:	Photocopy of Service certificate dt. 26.05.1997
Ex.W10:	Photocopy of letter to Employment exchange notification
Ex.W11:	Photocopy of Audit report dt 14.07.1999.

Documents marked for the Respondent

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

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1988.—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 gnjkckn के पंचाट (131/2002) प्रकाशित करती है।

[सं. एल-12012/172/2000-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 131/2002*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/172/2000–IR (B-I)]

SALONI, Dy. Director

ANNEXURE

In The Central Government Industrial Tribunal Cum Labour Court At Hyderabad

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 15th day of April, 2026

INDUSTRIAL DISPUTE No. 131/2002

[Old ID No.116/2000 of Industrial Tribunal No.I, Hyderabad]

Between:

Sri P. Munaiah,

Santigari Palli (V),

Siddavatam (M & P.O),

Cuddapah dist.

Cuddapah – 516001. … Petitioner

And

The dy. General Manager,

State Bank of India,

Zonal Office,

Renigunta Road,

Tirupathi – 517501. …..Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/172/2000-IR(B.I) dated 19.9.2000 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. 116/2000, as per orders of Central Government vide Lr.No.H-11026/1/2001-IR(C.II) dated 18.10.2001, requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Cuddapah Main Branch justified in terminating Sri P. Munaiah, Messenger, from the services of the Bank? If not, what relief he is entitled?"

After receipt of the reference, it was numbered as ID No. 131/2002 and notices were issued to both the Workman and the management.

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

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

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank and worked from 1984 to 1997 and rendered unblemished service spreading over a period of about 14 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 W6, including appointment letters, interview letters, and service certificates showing employment across various periods. Though the Respondent produced 12 documents including all five settlements, panel details, and judgments of the Hon'ble High Court and Supreme Court, conclusively supporting the Bank's position, but did not examine witness in support of his counter nor proved his documents.

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 P. Munaiah, 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 as a Messenger and worked for 986 days. Further Petitioner stated that he 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 at State Bank of India, Main branch, Cuddapah of the Respondent. Ex. W1 is the empanelment list. Ex. W2 is the service certificate dated 12.4.97. Ex.W3 is the service certificate dated 22.5.92. Ex. W4 is the transfer certificate. Ex.W5 is the Service particulars.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 170 days continuously during the period from 1.6.96 to 1.12.96 and then, he worked from 1.1.97 to 21.3.97 for 80 days continuously, Ex.W2 is the certificate in this regard. Further, WW1 states that there were no complaints against him from any customers or officers of the Respondent throughout the period of his service. This Witness was cross examined by the Respondent counsel and in his cross examination the WW1 states that he was given appointment as a messenger on temporary basis for a period of 139 days before interview and after interview he worked for 847 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
1.6.1996 to 1.12.96	170
1.1.1997 to 21.3.97	80
Total	250

Thus, sum of working days as shown in the above table is 250 days which is more than 240 working days as required under the provision of section 25F of the ID Act for continuous service. However, Respondent failed to controvert the claim and evidence of the Petitioner by adducing any oral or documentary evidence. Therefore, the claim of the Petitioner that he was terminated illegally in contravention of provision of Sec.25F of the Act is proved.

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 16 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 16 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 16 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 in two separate spells in one year period of time and he worked for 170 days continuously during the period from 1.6.96 to 1.12.96 and then, he worked from 1.1.97 to 21.3.97 for 80 days continuously, Ex.W2 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 1981 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 16 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 14 years i.e., from 1984 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 1984 to 1997 in different spells and has also gone under physical and mental agony during long period of litigation for more than 24 years at different levels. In the opinion of the court payment of a sum of Rs.2,00,000/- as lumpsum compensation to the Workman would meet the ends of justice. Therefore, the claim statement is partly allowed.

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

29. Perused the record. Petitioner has filed the claim statement with the averment that Petitioner had worked in the Respondent bank in different spells from 1.4.1984 till 31st March 1997. But the Respondent has terminated his services without assigning any valid reason. Further, it is alleged that Respondent has retained his juniors in his services and Respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the Respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the Respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

Hon'ble Supreme Court in several decisions have reiterated that evidence not supported by the pleadings is not generally admissible. Therefore, in view of law laid down by Hon'ble Apex Court the evidence presented by WW1 in

respect of the claim of regularization in the employment is not admissible as there is no pleading in the claim statement of the Petitioner to this effect. Therefore, in view of the above, the plea regarding regularization is not tenable.

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri P. Munaiah, 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 15th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1:	Photocopy of Notification
Ex.W2:	Photocopy of Service certificate dated 12.4.97
Ex.W3:	Photocopy of Service certificate dated 22.5.92
Ex.W4:	Photocopy of transfer certificate
Ex.W5:	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, 31 अगस्त, 2026

का.आ. 1989.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण/श्रम न्यायालय नं 2 vgenuxj के पंचाट (12/2017) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-210]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1989.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 12/2017*)* of the *Indus.Tribunal-cum-Labour Court No. 2 Ahmednagar* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12025/01/2026–IR (B-I)-210]

SALONI, Dy. Director

ANNEXURE

IN THE SECOND LABOUR COURT AT AHMEDNAGAR.

(Before Abhijeet G. Deshmukh, Presiding Officer)

Reference (I.D.A.) No. 12 / 2017.

(CNR – MHLC-160002152017)

1. The Regional Manager,
   Central Bank of India,
   Regional Office,
   Aurangabad 5/5/72,
   New Usmanpura,
   Aurangabad – 431005.
2. Branch Manager,
   Central Bank of India,
   Khandala Branch,
   Po. Tq. Shrirampur,
   Dist. Ahmednagar. … **First party.**

VERSUS

Ravikant Baban Vadne,

Age : 39 years, Occu. : Nil,

At. Po. Khandala, Tq. Shrirampur,

Dist. Ahmednagar. … **Second party.**

APPEARANCE :- Smt. T.T. Kakad, Ld. Adv. for the first party.

Shri. K.Y. Modgekar, Ld. Advocate for the second party.

AWARD

(Dated : 21/03/2025)

1. The present reference is filed under the Industrial Disputes Act, 1947, for adjudication of the dispute between the parties who are referred as first party (the employer) and second party (the employee) accordingly.

2. The case of the second party – workman as per his statement of claim Exh. U-1 is that the first party i.e. the Central Bank of India is a nationalized bank with hundreds of branches across the country and having thousands of employees working in it. There are independent Service Rules for the employees of the first party Bank. As per the said Service Rules, the first party Bank is required to allow permanency to the workers who had worked for 60 days, and at present, the workers who have worked for 45 days, must be allowed permanency. The work of Sweeper is essential and that of permanent nature. It is further contended by the second party that he worked as a Sweeper in Khandala Branch since September-2003 on daily wages. He was initially paid Rs. 50/- on vouchers. Appointment letter and pay slips were not given to the daily wage workers. The second party was illegally terminated w.e.f. 09.04.2005. His entire service was continuous and unblemished. He is eligible for permanency in service as per the Service Rules.

3. It is further contended by the second party that advertisements are published from time to time by the first party Bank for recruitment. Temporary and daily wage employees of the first party bank were only required to apply at the time of these advertisements. Temporary and casual employees are also entitled to apply for permanent appointment, if the concerned employees possess the requisite qualification i.e. caste category. The first party bank has permanent staff of Sweepers and, pay, leave, vacations and other benefits are provided as per Service Rules to them. However, daily wage workers and temporary workers are paid nominal wages. There is no difference between the work of permanent Sweeper and daily wage Sweeper.

4. It is further contended by the second party workman that his entire service from 2003 to 2005 is continuous and clean. He has rendered 240 of continuous service in the preceding 12 months prior to his oral termination dated 09.04.2005. Show cause notice or charge sheet was not issued to the second party workman. Departmental enquiry was also not conducted against him. Seniority list was also not published by the first party. His juniors are still in service with the first party. His last pay is Rs. 50/- per day. The first party paid his wages on vouchers during his service tenure. He was terminated illegally without following due process of law.

5. It is further contended by the second party workman that workers are not paid equal pay for equal work. After his termination, the second party workman failed to get the employment, despite several attempts for getting employment. Hence, it is prayed to declare the oral termination of the second party dated 09.04.2005 as illegal, improper, contrary to principles of natural justice, and direct the first party to reinstate him in service along with continuity and full back wages.

6. The first party appeared and resisted the statement of claim by filing written statement at Exh. C-4. All the contentions of the second party in the statement of claim are denied by the first party. It is contended by the first party that the statement of claim is not true and correct. No cause of action has arisen for filing the present dispute. There is no employer-employee relationship between the first party and the second party. The second party has never worked as a temporary or permanent worker with the first party. Recruitment of all the posts of the first party is done through advertisement and examination by following due procedure of recruitment. There is no Service Rules regarding permanency of a workman who served / worked continuously for 60 days or 45 days. The first party publishes regular advertisement for recruitment of employees as per requirement. The said advertisement mentions the qualification for each post, and any eligible person can apply for that post as per the procedure given in the advertisement. Candidates who qualify in the examination are recruited as per the merit list. The second party was called only as and when the work was available. Hence, claim of the second party deserves to be rejected. Accordingly, the first party prayed to answer the reference in negative.

7. The issues along with findings thereon and the reasons therefor are as under :-

Sr. No.	Issues	Findings
1	Does the second party (workman) prove that he has performed continuous service with the first party for 240 days in a year, from the date of his appointment as Sweeper in September-2003 till the date of his oral termination on 09.04.2005, as claimed?	Yes.
2	Does the second party prove that the action of first party in orally terminating his service from 09.04.2005 is illegal and against the principles of natural justice?	Yes.

3	Whether the second party (workman) is entitled to the relief of declaration to that effect?	Yes.
4	Whether the second party is entitled to the reinstatement in service along with continuity and full back wages?	No. But, entitled for compensation.
5	What order?	As per final Award.

REASONS

As to issue Nos. 1 to 5:-

8. In support of his contentions, the second party workman has filed his affidavit in lieu of examination-in-chief at Exh. U-22, and has reiterated all the contentions of his statement of claim. The second party has filed documents on record along with lists of documents at Exh. U-19 and U-21.

9. On the contrary, the first party has filed affidavit in lieu of examination-in-chief of Mr. Vinod Yuvraj Mohite, Branch Manager of the first party at Exh. C-6.

10. I have also gone through the document filed along with the list at Exh. U-2 i.e. letter of the Regional Labour Commissioner, Pune.

11. The facts admitted by the second party in his cross-examination are as under :-

(1) In the year 2003, the first party has not published any advertisement for recruitment.

(2) Appointment letter was not given to him in the year, 2003. There is no written agreement of service in between the first party and himself.

(3) He was working on daily wage basis with the first party.

(4) At the time of recruitment after advertisement, exemption / facility is given to the daily wage workers. However, daily wage workers were required to apply as per the advertisement, and after conducting written and oral tests, the eligible candidates were recruited.

(5) The first party bank had published an advertisement in the year 2013. (He is unable to state whether the said advertisement got cancelled or not.)

(6) Daily wage workers have no right to sign on muster-roll.

(7) He had no right to perform written work in record of the first party bank.

12. The facts admitted by the witness of the first party Mr. Vinod Yuraj Mohite, Branch Manager in his cross-examination are as under :-

(1) He was not attached to Khandala Branch during the working period of the second party.

(2) Appointment order as well as termination order was not issued to the second party.

(3) They have paid wages to workmen on vouchers. Entry of vouchers is taken in cash book and ledger book. Cash book and Ledger book are permanent record of the bank and maintained for 10 years.

(4) After discontinuing the workman, Mr. Mahindra Dive is working on daily wages in the branch as per directions of the Branch Manager.

(5) He has not sent proposal in respect of granting permanency to the workman.

(6) At the time of discontinuing the workman, notice pay or retrenchment compensation was not paid to him.

(7) The second party had made representation to allow him to work after his discontinuation.

13. Having regard to all these oral as well as documentary evidence on record, and after perusal of Statement of Claim and Written Statement, the factual position of the case is summarized as under :-

(1) The second party workman has worked on daily wages basis with the first party bank for a period from September-2003 to 09.04.2005.

(2) The second party workman was not appointed by any written order or by adopting recruitment process.

(3) The second party workman had no right to sign on muster-roll.

(4) Payment (wages) of the second party workman was drawn on vouchers.

(5) Lastly, the Second party workman was getting Rs. 50/- per day as wages.

(6) Vouchers are destroyed after 10 years.

(7) Entries of vouchers are available in cash books.

(8) Work of cleanliness in the first party bank is of permanent nature.

(9) The second party workman has been terminated orally without issuing any notice or charge-sheet or without conducting any enquiry.

14. The witness of the first party Mr. Mohite has admitted in his cross-examination that the entries of vouchers are available in the Cash books. In this situation, the first party could have filed copies of the Cash Books on record to show that the second party has or has not worked 240 days in 12 months preceding his termination. The first party has failed to file any document on record to show that the second party has worked for less than 240 days in preceding 12 months of his termination.

15. Learned Advocate on behalf of the second party workman argued that the first party has not filed relevant documents in its custody, and hence, adverse inference may be drawn against the second party. In support of his arguments, learned Advocate for the second party relied upon the following case laws :-

(1) ***M.P. Electricity Board, Vidisha V/s. Hariram and another, reported in 2000 (87) FLR 750***. *In the said cas*e, the Hon'ble Madhya Pradesh High Court observed that one cannot also be oblivious of the fact that in matters pertaining to such engagement on daily wages, the record is normally maintained by the employer and, in view of the categorical assertion of the employees that they had worked continuously during the period in question and the defence that they had been only intermittently engaged, for non-production of the Muster Rolls an adverse inference could be drawn against the employer.

(2) ***Bright Export Limited v/s. Central Board of Trustee, EPF Organisation, reported in 2016 LLR 487***. *In the said case, the Hon'ble Delhi High Court observed* as under :-

> "*When a particular fact is within the special knowledge of the opposite party, the burden to prove the same lies upon the opposite party in terms of section 106 of the Indian Evidence Act, 1872, even if the same has been pleaded by other party.*"

(3) ***Sanjay Kumar s/o Surendra Kumar Sharma V/s. Chief Executive Officer, Janpad Panchayat, Ratlam, reported in 2010 LLR 1065***. In the said case, the Hon'ble Madhya Pradesh High Court observed as under :-

> "*If the party possesses best evidence and is not produced before the Court, an adverse inference can be drawn under the Evidence Act against such a party."*

In view of the observations of the Hon'ble High Court in the cases of ***M.P. Electricity Board, Vidisha*** (supra), ***Bright Export Limited*** (supra), and ***Sanjay Kumar s/o Surendra Kumar Sharma*** (supra), it becomes clear that adverse inference can be drawn against the party who despite possessing evidence, fails to produce the same.

16. The copies of the Cash Book are expected to be in custody of the first party, and it was for the first party to produce the same. In such circumstances, non-production of the Cash Books by the first party leads to drawn adverse inference that if the same had been produced, it would have supported to the contentions of the second party. In cross-examination of the second party, nothing is come on record to disbelieve the contentions of the second party that he was worked for more than 240 days in 12 months preceding his oral termination. Moreover, there is no contentions of the first party that it is ready to get the second party resumed on duty. Therefore, contentions of the second party that he was orally terminated, can be accepted as proved.

17. It is also contention of the second party workman that the daily wage workers who had worked for more than 65 or 45 days, were made permanent in service. However, there is nothing on record to establish the said alleged fact. The second party failed to prove the said alleged fact by adducing oral or documentary evidence. Moreover, the present case is not the case for deciding permanency in service.

18. Nothing is available to disclose that recruitment process was conducted by the first party after termination of the second party, and the second party was not given opportunity to participate in such a recruitment process. Moreover, nothing is available to disclose that the second party participated in any recruitment process.

19. Now, turning towards the legal aspects involved in the case, it is necessary to reproduce relevant Section of the Industrial Disputes Act, 1947, which is as under :-

> *"**Section 25-F.***
>
> *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."*

20. Learned Advocate on behalf of the second party workman has relied upon the following case laws :-

(1) ***H.D. Singh V/s. Reserve Bank of India and others, Civil Appeal No. 6417/NL/1983 dated 10.09.1985.*** *In the said case, the Hon'ble Supreme* Court has observed that the striking off the name of the appellant from List II amounted to retrenchment under Section 2(oo) of the Act and was in violation of Section 25-F.

(2) ***Umesh Saxena V/s. Presiding Officer, Labour Court, Agra and others, reported in 1993 FLR (66) 566***. *In the said case, the Hon'b*le Allahabad High Court has observed that retrenchment without following the mandate contained in Section 25-F of the Industrial Disputes Act is void and cannot be supported in law.

(3) ***General Manager, Telecom, Nagpur and others V/s. Naresh Brijlal Charote, reported in 2001 LAB I.C. 2127***. *In the said case, the Hon'ble Bombay High Court has observed* as under :-

"It has been time and again held by this Court as well as by the Apex Court that the non-compliance of the mandatory provisions of Section 25F of the Act would render the termination of service void ab initio."

4) ***K.V. Durga Prasad & Ors. V/s. Sri. Durgamalleshwara Swami Vari Devasthanam Vijayawada & Ors., reported in 1996 LLR 329***. In the said case, the Hon'ble Andhra Preadesh High Court has observed as under :-

" - - - - - - - - - -. Thus, I find that the impugned termination orders are in violation of principles of natural justice. Without going to the respective merits of the case, I am inclined to allow this writ petition on the ground of contravention of principles of natural justice."

5) ***Jaggo V/s. Union of India and others, reported in 2025 (1) Bom.L.C. 261 (SC)***. In the said case, the Hon'ble Supreme Court has observed that the claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The Hon'ble Supreme Court also observed that the termination letters, issued without prior notice or explanation, violated fundamental principles of natural justice.

6) ***Gauri Shankar Vs. State of Rajasthan, reported in 2015 LLR 785***. *In the said case, the H*on'ble Supreme Court has observed that non-compliance of the mandatory requirements under Sections 25F, 25G and 25H of the Act by the respondent-Department rendered its action of termination of the services of the workman as void ab initio in law.

In view of the observations of the Hon'ble in the cases of ***H.D. Singh*** (supra), ***Umesh Saxena*** (supra), ***General Manager, Telecom, Nagpur*** (supra), ***K.V. Durga Prasad*** (supra), ***Jaggo*** (supra), and ***Gauri Shankar*** (supra), it becomes clear that retrenchment without complying provisions of Section 25-F and the principles of natural justice is void.

21. Learned Advocate on behalf of the second party workman argued that juniors of the second party are still in service with first party, and on the basis of 'last come first go' rule, the first party should have to terminate / retrench juniors of the second party before terminating him. In support of his arguments, learned Advocate for the second party relied upon the following case laws :-

(1) ***Samishta Dube V/s. City Board, Etawah & Another, reported in 1999 CLR 460***. *In the said case, the Hon'ble Supreme Court observed* as under :-

"9. It is true that the rule of `first come, last go' in section 6-P could be deviated from by an employer because the section uses the word `ordinarily'. It is, therefore, permissible for the employer to deviate from the rule in cases of lack of efficiency or loss of confidence etc., as held in M/s. Swadesamitran Limited, Madras v. Their Workmen, [1960] 3 SCR 144. But the burden will then be on the employer to justify the deviation. No such attempt has been made in the present case. Hence, it is clear that there is clear violation of Section 6-P of the U.P. Act."

(2) ***Central Welfare Board and Others V/s. Ms. Anjali Bepari and Others, reported in 1996 LLR 1089***. In the said case, the Hon'ble Supreme Court observed that, "*dispensing with the services should be on last-come-first-go basis, i.e., the junior-most incumbent has to go out first.*"

(3) ***Trade-Wings Limited V/s. Prabhakar Dattararam Phodkar of Bombay and Ors, reported in 1992 LR (1)***

***480**. In the said case, the Hon'ble Bomb*ay High Court observed that Rule 81 of the Industrial Disputes (Bombay) Rules enjoins upon the employer before effecting retrenchment to prepare a list of workmen in the particular category from which retrenchment is contemplated arranged according to the seniority or their service in that category. The object of the Rule is apparent. It is to ensure the due compliance of Section 250 i.e. last come first go.

In the cases of ***Samishta Dube*** (supra), ***Central Welfare Board*** (supra) and ***Trade-Wings Limited*** (supra), the principle of "First Come Last Go" was emphasized.

22. Learned Advocate for the second party relied upon the following case laws :-

(1) ***Vilas Agaji Pawar and others V/s. The Union of India Additional Solicitor General and Others, Writ Petition No. 379 of 2024 dated 12th January, 2024.*** In the said case, the Hon'ble Bombay High Court observed as under :-

> *"19. It is, thus, crystal clear that the OTM was meant only for those Safai Karmacharis or Sub-Staff, who were already working with the Bank. These directions of the Honourable Supreme Court read with the law laid down in **Umadevi** (supra), lead to a sine-qua-non that the only option available for the Bank was to ensure that the long serving employees as like the Petitioners at it's various establishments and branches in India, were considered for the OTM.*"

(2) ***Spentex Industrial Limited V/s. Member, Industrial Court, Nagpur and others, reported in 2011 (131) FLR 843***. In the said case, the Hon'ble Bombay High Court Bench at Nagpur observed as under :-

> "*Though, it is debatable whether the principles applicable in respect of Section 33 of the Industrial Disputes Act, would stricto sensu apply to the proceedings under the M.R.T.U. & P.U.L.P. Act, 1971, but the least that was expected from the petitioner-Company was that when the parties were before the Court and when an application for interim relief was pending, the petitioner-Company ought to have informed the Court of the action it proposes to take based on the enquiry officer's report. Having not done so, in my view, the Courts below were right in protecting the services of the respondent No. 3 pending the Complaint. The facts of the present case are such that the discretion exercised by the Courts below in granting the interim relief cannot be faulted with."*

Facts of the cases of ***Vilas Agaji Pawar*** (supra) and ***Spentex Industrial Limited*** (supra), are not similar with the facts of the instant case. Because, in the instant case, nothing is to show that long service of employees were not considered for OTM. Moreover, in the instant case, the application for any interim relief is not subjudiced.

23. Learned Advocate on behalf of the first party bank has relied upon the case of ***Secretary, State of Karnataka and Ors. V/s. Umadevi and others, reported in AIR 2006 SC 1806***. In the said case, the Hon'ble Supreme Court has observed as under:-

> " - - - - - - - - . It has also led to persons who get employed, without the following of a regular procedure or even through the backdoor or on daily wages, approaching the Courts, seeking directions to make them permanent in their posts and to prevent to regular recruitment to the concerned posts. - - - - - - - - - . It is time, that Courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance, tends to defeat the very Constitutional scheme of public employment. - - - - - - - - -."

24. Learned Advocate on behalf of the second party has relied upon the case of ***Chief Conservator of Forests, Pune (T) and another, V/s. Janabai Sonaba Sarpale, reported in 2019 (1) Bom.LC 18***. In the said case, the Hon'ble Bombay High Court has observed as under :-

> *"25. The Apex Court in MSRTC (supra) has clearly observed that the issue relating to unfair labour practices was neither referred nor considered or decided in Uma Devi's case and therefore, the ruling in., Uma Devi (supra) does not denude the Industrial and Labour Courts of their statutory power under section 30 read with section 32 of the MRTUP and PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under Item 6 of Schedule IV. The Apex Court in fact, held that Uma Devi (supra) cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under section 30 of the MRTU and PULP Act, once a case of unfair labour practice on the part of the employer under Item 6 of Schedule IV is established.*"

In the instant case, this Court is not dealing with the matter of permanency. Thus, facts of the case of ***Umadevi*** (supra) and the case of ***Chief Conservator of Forests*** (supra) are different from the facts of the instant case.

25. The learned Advocate for the second party relied upon the case of ***Jayantibhai Raojibhai Patel V/s. Municipal Council, Narkhed, Civil Appeal No. 6188 of 2019, arising out of SLP (C) No. 8112 of 2019, dated 21.08.2019***. *In the said case, the Hon'ble Supreme Court has observed* as under :-

"*13. Having due regard to the principles which have been enunciated in Deepali Surwase by this Court, the High Court was not, in our view, justified in denying the back-wages to the appellant altogether. Bearing in mind the circumstances which have been noted above, a lumpsum compensation should be directed to be paid.*"

26. The, the Hon'ble Bombay High Court in the case of ***Divisional Secretary, Maharashtra State Board of Secondary and Secondary Education, Nagpur and another V/s. Mohd. Naim s/o Abdul Rahim, reported in 2009 (1) Bom. LC 453 (Bom)***, has made it clear by observing that "*It therefore follows that the mode or manner of entry into service is one of the relevant factors to be considered here and distinction between cases of prayer for regularisation & reinstatement being made earlier is now not available after the constitutional bench verdict of Hon. Apex Court in case of Secretary, State of Karnataka .vrs. Umadevi (supra). In public employment therefore mere violation of S. 25F or S.25G or S.25H by itself may not be sufficient to sustain reinstatement if employment is not secured in accordance with relevant rules for recruitment or Art. 14 of the Constitution Of India.*"

27. Having regard to all the legal as well as factual aspects involved in the matter as discussed herein above, and after giving thoughtful consideration to the observations of the Hon'ble Supreme Court and the Hon'ble High Court in the above referred case laws, this Court is of the view that the provisions of the Industrial Dispute Act are applicable to the first party, and the second party has completed 240 days in the preceding 12 months of his oral termination dated 09.04.2005, and his termination is without following mandatory provisions of the Industrial Disputes Act, 1947, which is illegal and improper termination violating the statutory provisions of the Industrial Disputes Act, 1947. Accordingly, the second party is entitled for declaration of the same. Resultantly, issue Nos. 1 to 3 are answered affirmative.

28. Considering the entire factual and admitted position of the present case as well as the provisions of law, reinstatement of the second party workman with the first party will not be appropriate. Instead of reinstatement, awarding a reasonable lump-sum amount of compensation to the second party workman would be just and appropriate. According to the second party, his last pay was Rs. 50/- per day. In view of the facts and circumstances of the case, taking into consideration last designation, last paid wages, service tenure and age of the second party workman, in my considered view, awarding lump-sum compensation of an amount which will be 1000 times of his last per day wages i.e. 1000 x 50 = 50,000/- would be just and appropriate. Thus, awarding lump-sum compensation of the amount of Rs. 50,000/- to the second party workman would meet the ends of justice. Resultantly, issue No. 4 is answered accordingly. For issue No. 5, the following Award is passed.

AWARD

1. The reference is answered partly affirmative as under :-

A. It is declared that the oral termination of the second party dated 09.04.2005 is illegal and improper.

B. The second party workman is entitled for lump-sum compensation amount of Rs. 50,000/-.

C. The first party is directed to pay compensation amount of Rs. 50,000/- to the second party workman.

D. The first party is hereby directed to comply the order within two months from the date of publication of the Award.

E. If the first party failed to comply the order within time, then the second party workman is entitled to simple interest at the rate of 6% per annum on the compensation amount of Rs. 50,000/-, from the date of this Award till its actual realization.

2. Five copies of this Award be sent to Regional Labour Commissioner, office of the Regional Labour Commissioner, 1, Kaul Building, Shankar Seth Road, Gururnanak Nagar, Pune – 411002 for publication and further necessary action.

3. No order as to costs.

A. G. DESHMUKH, Presiding Officer & Judge

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1990.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14)की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k&sह&Je U;k;ky;, आसनसोल के पंचाट (संदर्भ संक्या 08/2019) को प्रकाशित करती है,

[सं. एल-22012/169/2018-आई.आर.(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference. 08/2019*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen,

[No. L-22012/169/2018–IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 08 OF 2019

PARTIES: Disco Jena
(dependent son of Late Bipra Jena)

Vs.

Management of Madhusudanpur Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 21.07.2026

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), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/169/2018-IR(CM-II)** dated 10.01.2019 has been pleased to refer the following dispute between the employer, that is the Management of Madhusudanpur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of Madhusudanpur Colliery of Eastern Coalfields Ltd. in not providing employment on compassionate ground to Sri Disco Jena, S/o Lt. Bipro Jena is justified or not. If not to what relief Sri Disco Jena, son of Lt. Bipro Jena, ex-employee of Madhusudanpur Colliery is entitled to? "

1. On receiving Order **No. L-22012/169/2018-IR(CM-II)** dated 10.01.2019 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 28.01.2019 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Mr. Rakesh Kumar, President of Koyala Mazdoor Congress, represented Disco Jena, the son of Bipra Jena, the deceased employee of Eastern Coalfields Limited (hereinafter referred to as ECL). A written statement has been filed by the union on 08.05.2023. The fact of the case of the union in brief, is that Bipra Jena, Ex-Wagon Loader was posted at Madhujore Colliery under Kajora Area of ECL and died on 08.08.1994, while he was in service of the company. According to the National Coal Wage Agreement (hereinafter referred to as NCWA) one dependent of the deceased employee is entitled to get employment. In the instant case wife of the deceased employee requested the management of the company to provide employment to her son Disco Jena. Relevant documents were submitted before the management of the company. The prayer for employment was processed and sent to the Area Office which conducted medical examination of the dependent son along with Screening. The proposal for employment was forwarded to the Headquarters of ECL but ultimately no decision was taken. Management neither provided employment to the son as per NCWA nor paid any monetary compensation to the wife. The proposal for employment has not been regretted till date. According to the union a Memorandum of Settlement dated 22.05.2007 was signed by the management of ECL before the Regional Labour Commissioner (C), Asansol where it was agreed that the claim for employment will be considered and processed but the claim for employment of Disco Jena has not been considered till date. The family of Bipra Jena is passing through a difficult period without any source of income and livelihood. The union prayed the Disco Jena, son of the ex-employee should be provided with employment and monetary compensation should be paid to the wife from the date of death of the ex-employee till employment is granted to the son.

3. Management contested the claim by filing written statement on 27.12.2022. The converse case of the management is that the dispute has been raised by the union more than eleven (11) years after the death of Bipra Jena in the year 1994 and the reference has been made to this Tribunal twenty-five (25) years after the death. According to the management the union has not placed a single document regarding claim made for compassionate employment of the son before the management. The specific case of the management is that no application for employment has been submitted by the dependent of the deceased employee. Reliance has been placed upon the decision of the Hon'ble High Court at Calcutta in the case of **State of West Bengal and Others Vs. Purnam Pradhan [M.A.T. No. 1036 of 2011]** where it was held that *"compassionate appointment should not be offered after lapse of reasonable period, to say, five years".* The management further placed reliance upon the case of **Nunibala Mondal @ Nuni Mondal and Another Vs. Eastern Coalfields Ltd and Others [W.P. No. 1660 (W) of 2016]**, where it has been held that a delay of more than five or six years is fatal to a matter pertaining to compassionate appointment. The management contended that the dependent of Bipra Jena is not entitled to any relief in this case.

4. The short point for consideration in this case is whether Disco Jena, son of Late Bipra Jena is entitled to employment under ECL on compassionate ground and whether action of the management of Madhusudanpur Colliery is justified in not providing employment.

5. Disco Jena is examined by the union as the sole Workman Witness No. 1. In order to substantiate his claim for employment it has been averred by the witness that his father died while he was in the service of the employer company. Tula Jena, wife of the deceased applied for providing employment to the dependent son and submitted required documents. Screening was held at the Colliery level and proposal for employment was sent to the Area but no action was taken. The management neither rejected the proposal for employment nor any employment has been provided. The wife of the deceased was not paid any monetary compensation in lieu of employment and she died on 27.11.2009. During his evidence-in-chief the witness has produced the following documents :

(i) Copy of the Death Registration Certificate of Bipra Jena has been produced as Exhibit W-1.

(ii) Copy of Service Record Excerpt of Bipra Jena, as Exhibit W-2.

(iii) Copy of Death Registration Certificate of Tula Jena, as Exhibit W-3.

(iv) Copy of Relationship Certificate issued by the Sarapanch, Dhanantara Gram Panchayat, Sheragada, Ganjam, Odisha, as Exhibit W-4.

In his examination-in-chief, the witness has categorically stated that he has no document to show that either he or his mother had applied before ECL for employment on compassionate ground.

6. In course of cross-examination, the witness deposed that he has not submitted any document before the management of ECL for the purpose of his employment till date.

7. Management examined Mr. Proloy Dasgupta, Manager (Personnel), Madhusudanpur Colliery, ECL as Management Witness No. 1. It is admitted by MW-I that Bipra Jena was a permanent employee of Madhujore Colliery, who expired on 08.08.1994. According to the management witness, neither the union nor the dependents of

Bipra Jena submitted any document regarding claim for employment. Furthermore, no Relationship Certificate, Indemnity Bond, Declaration Form, Attestation Form, 'No Objection Certificate' were submitted before the management. In his examination-in-chief the witness deposed that no claim for employment was submitted by the family members of the deceased employee. Witness stated that after the death of Bipra Jena, his family members did not communicate the same to the Manager and Disco Jena was never called to the company office for any scrutiny or medical examination for the purpose of providing employment.

8. It transpires from the cross-examination of the management witness that gratuity and other dues have not been disbursed to the legal heirs and no monetary compensation has been paid to the widow of the deceased employee. Management witness denied that the management acted in any illegal manner by not providing employment to the dependent of the deceased employee. He further denied that Tula Jena submitted any application on 17.08.1995 before the Manager, Madhujore Colliery, seeking employment for her son.

9. The case is taken up for hearing of argument on 20.07.2026, in presence of Disco Jena who appeared before the Tribunal after lapse of two (2) years and ten (10) months, for putting his signature on the evidence which was recorded on 11.09.2023. Mr. Rakesh Kumar, union representative submitted that a copy of Death Registration Certificate of Bipra Jena was produced as Exhibit W-1 and Service Record Excerpt of Bipra Jena, as Exhibit W-2. The Service Record Excerpt reveals that Disco Jena is a dependent son of the deceased employee and there is no dispute regarding his relationship with the deceased employee. Mr. Kumar also argued that an application claiming employment for the dependent son was submitted on 17.08.1995 but the same has not been considered till date. It is contended that according to the provision under Clause 9.3.2 of NCWA-V employment should be provided to one dependent of the employee who died while in service of the company and for this purpose the dependent should be physically fit for employment and his age should not be more than thirty-five (35) years on the date of application. Mr. Kumar argued that though application was submitted on 17.08.1995, the management did not consider the same as such the union had to raise this Industrial Dispute in the year 2019. According to him the claim is genuine and the management of ECL should be directed to provide employment to the son of the deceased employee.

10. Mr. P. K. Das, learned advocate in reply argued that no application was submitted by the dependent of the deceased employee for providing employment and there was no scope for the management to process his claim. It is argued that the dependent has abandoned his claim by long silence. Therefore, the Industrial Dispute is liable to be dismissed.

11. I have considered the rival arguments. The bone of contention between the union and management of ECL is laid down in the Schedule. I also have closely examined the materials on record, pleadings of parties and evidence adduced. It is an admitted fact that Bipra Jena was a permanent employee of ECL and he died in harness on 08.08.1994. Provisions in Clause 9.3.4 of NCWA-V applicable to the present case undoubtedly provide for grant of compassionate employment to a dependent on fulfilment of two conditions i.e., he should be physically fit for employment and his age should not be more than thirty-five (35) years on the date of application. During evidence-in-chief Disco Jena, the son of the deceased employee admitted that he has no document to show that his mother or he submitted any application before the management of ECL for providing employment on compassionate ground. This single admission of the dependent demolishes the claim of the union that the mother, Tula Jena submitted application before the management on 17.08.1995 for employment of her son. In the affidavit-in-chief no such statement was made by the dependent son of the employee.

12. The union has raised the Industrial Dispute after lapse of more than twenty-five (25) years. This maneuver of the union is absolutely unacceptable. In absence of any convincing proof that the dependent son or other family member of the deceased employee laid any claim for employment before the management within a reasonable time from the date of death of the employee, the right for compassionate employment under NCWA cannot continue for an indefinite period. It transpires from the evidence of the workman witness that Tula Jena died in the year 2009, which is ten (10) years prior to this reference under Industrial Disputes Act, 1947. Therefore, the statement in the written statement made by the union that wife of the deceased employee was never paid any monetary compensation is vague and beyond the scope of the Schedule in this case.

13. From the facts and circumstances of this case I hold that there is no tangible evidence to suggest that any claim for employment was ever made by Disco Jena or his mother soon after the death of Bipra Jena in 1994. Therefore, I find no merit in this case and the Industrial Dispute is dismissed on contest.

Hence,

ORDERED

That the Industrial Dispute is dismissed on contest. The management of Eastern Coalfields Limited committed no illegality by not providing employment to the son of Late Bipra Jena on compassionate ground. Management is directed to disburse the death benefits to the legal heirs of Bipra Jena within two (2) months. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1991.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k&sह&Je U;k;ky;, आसनसोल के पंचाट (संदर्भ संक्या 03/2026) को प्रकाशित करती है,

[सं. एल-22013/01/2026-आई.आर.(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1991.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference. 03/2026*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen,

[No. L-22013/01/2026–IR (CM-II)]

JAIDEEP YADAV, Dy. Director

INDUSTRIAL DISPUTE (CENTRAL) RULES

FORM H

(See Rule 59)

FORM OF MEMORANDUM OF SETTLEMENT

CGIT Case Reference No. 03 of 2026 Date: 20.07.2026

REPRESNTING EMPLOYER	**REPRESENTING UNION/Workmen**
1. General Manager, Satgram-Sripur Area, ECL	1. Sri Ramesh Singh, Secretary Colliery Mazdoor Sabha (AITUC)
	2. Gayanti Devi W/o Lt. Ananth Kr. Harijan

SHORT RECITAL OF THE CASE

Sri Ramesh Singh, Secretary of Colliery Mazdoor Sabha (AITUC), Girmint Colliery, P.O: Pariharpur, Dist: Paschim Bardhaman. West Bengal-713373, raised an Industrial Dispute over deduction of Rs. 42521.78/-from PLRS on account of recovery as House Rent in respect of Lt. Ananth Kumar Harijan Ex- employee of Bhanora West Block Colliery. During adjudication before the Hon'ble Presiding Officer, CGIT Asansol on different dates and both the parties agreed to resolve the dispute.

TERMS OF SETTLEMENT

The Management of Bhanora-Girmint Group of Mines, Satgram-Sripur Area of ECL agreed for payment of deducted House Rent. The deducted House rent amount has already been paid in the account of Gayanti Devi Wio Late Ananth Kumar Harijan amounting Rs. 42,521.78 vide e-pay order no. AOAZ480819. The ID has been settled.

REPRESNTING EMPLOYER	**REPRESENTING UNION/WORKMEN**
1. General Manager, Satgram-Sripur Area, ECL Bhanora-Gir Gr of Mines, Satgram-Sripur Area, ECL	1. Sri Ramesh Singeretary, Colliery Mazdoor Sabha (AITUC)
2. Manager (HR)/Legal, Satgram-Sripur Area, ECL	2. Gayanti Devi W/o Lt. Ananth Kr. Harijan
3. Ch. Manager (Min.)/Agent, Bhanora-Gir Gr of Mines	

Witness :

1. Dy. Manager (HR), Bhanora-Gir Gr of Mines, ECL
2. Asst. Manager (HR), Bhanora-Gir Gr of Mines, ECL

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 03 OF 2026

PARTIES: Gayanti Devi

Vs.

Management of Satgram-Sripur Area, ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Ramesh Singh, Secretary, Colliery Mazdoor Sabha.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 22.07.2026

AWARD

In exercise of powers conferred under sub-Section (5) of Section 12 read with sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(43)/2025/E** dated 09.01.2026 has been pleased to refer the following dispute between the employer, that is the Management of Satgram-Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" *Whether deduction of Rs. 42,521.78/- from Production Linked Reward Scheme (PLRS) 2022-23 on account of recovery as House Rent Allowance by the management of Bhanora West Block Colliery under Satgram-Sripur Area of ECL is justified? If not, what relief Smt. Gayanti Devi, W/o Late Ananth Kumar Harijan, is entitled to?* **"**

1. On receiving Order **No. 1(43)/2025/E** dated 09.01.2026 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute a Reference case was registered on 30.01.2026 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Mr. Ramesh Singh, Secretary, Colliery Mazdoor Sabha (AITUC) appeared on behalf of Gayanti Devi. Mr. P. K. Das, learned advocate appeared for the management of Satgram-Sripur Area of Eastern Coalfields Limited. The case is fixed up today for final disposal and filing of the Memorandum of Settlement in Form 'H'.

3. A Memorandum of Settlement dated 20.07.2026 is filed. Industrial Dispute arose due to deduction of Rs. 42,521.78/- on account of House Rent Allowance from the Production Linked Reward Scheme, 2022-23. The House Rent Allowance which was deducted has been reimbursed to Gayanti Devi, wife of Late Ananth Kumar Harijan vide E-pay Order No. AOAZ480819. Union has no further claim against the management. Under such circumstances Industrial Dispute is disposed of on the basis of the Memorandum of Settlement in Form 'H'.

Hence,

ORDERED

That the Industrial Dispute is disposed of in terms of the Memorandum of Settlement in Form 'H' dated 20.07.2026. Let an Award be drawn up treating the Memorandum of Settlement in Form 'H' as its part. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1992.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में dUnh; ljdkj vk|kfxd vf/kdj.k&lg&Je U;k;ky;, आसनसोल के पंचाट (संदर्भ संक्या 45/2025) को प्रकाशित करती है,

[सं. एल-22013/01/2026-आई.आर.(सी.एम-II)]

जयदीप यादव, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1992.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference. 45/2025*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of ECL and their workmen,

[No. L-22013/01/2026–IR (CM-II)]

JAIDEEP YADAV, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 45 OF 2025

PARTIES: Kajal Karmakar

Vs.

Management of Sodepur Area, ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal

STATE: West Bengal.

Dated: 22.07.2026.

AWARD

In exercise of powers conferred under sub-Section (5) of Section 12 read with sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(39)/2024/E** dated 29.08.2025 has been pleased to refer the following dispute between the employer, that is the Management of Sodepur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the Management of M/s ECL in denying regularization to the post of Mechanical Fitter Helper Cat-Il to Sri Kajal Karmakar, UG Trammer working at Bejdih Colliery of ECL is just and legal? If not, to what relief the concerned workman is entitled to? "

1. On receiving Order **No. 1(39)/2024/E** dated 29.08.2025 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute a Reference case was registered on 04.11.2025 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. Kajal Karmakar, the aggrieved workman is represented by Mr. Rakesh Kumar, union representative. Mr. P. K. Das, learned advocate appeared for the management of BMP Group of Mines under Sodepur Area of Eastern Coalfields Limited. The case is fixed up today for filing Memorandum of Settlement in Form 'H' and final disposal.

3. After registration of the case both parties appeared and submitted that the dispute involved in this reference has been amicably settled between the parties in presence of the workman and the Chief Manager (M) /Agent, BMP Group of Eastern Coalfields Limited. The document does not bear any date of execution. Considered. Let the Industrial Dispute be disposed of in terms of the Memorandum of Settlement in Form 'H'. Let the settlement be made a part of the Award.

Hence,

ORDERED

That the Industrial Dispute is disposed of in terms of Memorandum of Settlement in Form 'H'. Let an Award be drawn up in terms of settlement treating the Memorandum of Settlement in Form 'H' as its part. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1993.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चण्डीगड–I के पंचाट (92/2013) प्रकाशित करती है।

[सं. एल-12011/48/2013-आई.आर.(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 92/2013*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12011/48/2013–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh

(Presided over by Mr. Kamal Kant Presiding-cum-Link Officer).

ID No.92/2013

Registered on:-19.08.2013

Smt. Saroj Kumari, W/o Late. Sh. Dilbag Singh, C/o General Secretary, Central Bank of India employees Union, 129, Lal Kurti, Ambala Cantt (Haryana).

-------- Workman

Versus

The Assistant General manager, Central Bank of India, Regional Office, Jawahar market, Model Town, Rohtak(Haryana).

----Management

Present:- None for Workmen Union.
None for Management.

Award : 04.06.2026

1. Central Government Vide Notification No.L-12011/48/2013(IR(B-II)) dated 08.08.2013, 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 action of the management of the Asstt. General Manager, Central Bank of India, Regional Office, Rohtak(Haryana) for not considering the option form os Smt. Saroj Kumari W/o late Sh. Dilbag Singh for family pension of decease employee as per 2nd pension scheme in accordance to the Circular No.316 dated 01.09.2010 was legal & justice? What relief the said workman is entitled to & from what date?"*

1. The case is fixed for cross-examination of management witness by workman. However, no one is turning up on behalf of workman on the last date. Today also, no one turned up on behalf of workman. The workman has been given sufficient opportunities to cross-examine the management witness, but no one turned up on behalf of workman in spite of the opportunities afforded to it for cross-examine the management witness, which shows that the workman is not interested in adjudication of the matter on merit.

2. Since no one is appearing for the workman, 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.

Date 04.06.2026 KAMAL KANT, Presiding-cum-Link Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1994.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चण्डीगड–I के पंचाट (15/2015) प्रकाशित करती है।

[सं. एल-12012/44/2015-आई.आर.(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 15/2015*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12012/44/2015–IR (B-II)]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh

(Presided over by Mr. Kamal Kant Presiding-cum-Link Officer).

ID No.15/2015

Registered on:-31.08.2015

Vinod Kumar S/o Sh. Ram Karan, R/o H.No.404/15, Panchhi Road, Gandhi Nagar, Distt. Sonepat, Haryana.

-------- Workman

Versus

The Regional Manager, Central Bank of India, Regional Office, Jawahar Market, Model Town, Rohtak, Haryana.

----Management

Present:- None for Workmen Union.

None for Management.

Award :04.06.2026

1. Central Government Vide Notification No.L-12012/44/2015(IR(B-II)) dated 24/26.08.2015, 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 action of the management of Central Bank of India in terminating the services of the workman is legal and justified? If not, what relief the workman is entitled to and from which date?"*

1. The case is fixed for cross-examination of workman. However, no one is turning up on behalf of workman on the last date. Today also, no one turned up on behalf of workman. The workman has been given sufficient opportunities for cross-examination, but no one turned up on behalf of workman in spite of the opportunities afforded to it for cross-examination, which shows that the workman is not interested in adjudication of the matter on merit.

2. Since no one is appearing for the workman, 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.

Date 04.06.2026 KAMAL KANT, Presiding-Cum-Link Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1995.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली स्टेट को-ऑपरेटिव बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय fnYyh –***II*** के पंचाट (54/2020) प्रकाशित करती है।

[सं. एल-12025/01/2026-आई.आर.(बी-I)-211]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 54/2020*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Delhi -II* as shown in the Annexure, in the industrial dispute between the management of Delhi State Co- Operative Bank Ltd. and their workmen.

[No. L-12025/01/2026–IR (B-I)-211]

SALONI, Dy. Director

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

I.D. NO. 54/2020

Sh. Jitender Kumar, S/o Sh. Phool Chand,
R/o-G-40/10, Sunder Nagari, Delhi-110093.

Through: Samajwati Karamchari Union,
D-212, Gali No. 10, Jagatpuri, Mandoli Road,
Delhi-110093.

VERSUS

Delhi State Co-Operative Bank Ltd.,
31, Netaji Subhash Marg, Darya Ganj,
New Delhi-110002.

AWARD

03.06.2026

Item No. 11

I.D. No. 54/2020

03rd, June, 2026

Present:

Sh. Vinay Kumar, Ld. AR alongwith the workman

Sh. Akshit Sachdeva, Ld. AR along with Mr. Sandeep Solanki (Banking Assistant) for the management.

Record perused. Matter is listed today for arguments on the preliminary issues. However, AR for the workman has stated that workman wants to withdraw the present claim with liberty to file his claim in an appropriate forum.

Statement of workman has been recorded separately.

In view of the above submission made by the claimant, his claim stands dismissed as withdrawn. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification u/s 17 of the I.D. Act, 1947. Record of this file is consigned to record room.

ATULK KUMAR GARG Presiding Officer.

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1996.— 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 दिल्ली *-II* के पंचाट (58/2015) प्रकाशित करती है।

[सं. एल - 12012/39/2015- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1996.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.58/2015*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi -II* as shown in the Annexure, in the industrial dispute between the management of Delhi State Co- Operative Bank Ltd. , and their workmen.

[No. L-12012/39/2015- IR(B-I)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM

LABOUR COURT, No. 2 DELHI

ID No. 58/2015

Sh. Shiv Kumar, S/o Sh. KishanLal,

R/o- 85-B, Near Primary School, Carygaon, Premnagar,

Dehradun.

VERSUS

The Branch Manager,

State Bank of India,

Prem Nagar Branch,

Dist.-Dehradun,

Award

15.06.2026

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-12012/39/2015-IR(B-I)** dated 06.04.2015, was pleased to refer the following dispute between the employer, that is the Management of State Bank of India, Prem Nagar Branch and its workman for adjudication by this Tribunal, terms of which are as under:

"Whether the action of the management of State Bank of India, Prem Nagar Branch in terminating the services of Shri Shiv Kumar Sweeper w.e.f. 04.08.2014 is legal and justified? To what relief the workman is entitled to and from which date?"

Upon receipt of the reference, notices were sent to both the claimant and the management. Claimant filed his claim statement stated that he has been working with the respondent continuously from his appointment on 17.11.2009 until the termination of his services on 04.08.2014. He performed his duties sincerely and honestly as daily wage worker. He was assigned the additional work of "Dak Runner" along with his work of "Sweeper"for which the respondent also paid the remuneration. On 04.08.2014, he was allegedly pressurized to work under the contractor. Rather than to bow down the pressure, he submitted the representation dated 25.09.2014 to the respondent by which the petitioner had stated that he was appointed by the respondent no. 2 on 17.11.2009. Since his representation was not replied to, his services were deemed to have been terminated. Being constrained, he raised an industrial dispute before the conciliation officer. Upon failure of conciliation proceedings, the appropriate government referred the matter to this Tribunal. He made prayer that direction be issued quashing the impugned order dated 04.08.2014 along with its effect and operation and directed the respondent to consider his case for regularization in service along with its effect and pay the salary for the month of June and July, 2014 and further till his reinstatement in service.

2. Respondent herein has filed the written statement. He took the preliminary objection about the existence of employer-employee relationship between bank and the claimant. He submitted that there is no question arises of his regularization. It is submitted that claimant was never appointed by the respondent. He never performed any work of "Dak runner". On ten-twelve occasions, he was called upon to clean the verandah and parking space outside the bank premises, for which he was paid the remuneration. The vacancies of sweepers in the bank are filled as per the Bipartite Settlement. He submitted that claim of the claimant is liable to be dismissed.

3. Workman has filed the rejoinder, denying the averments made in the written statement and affirmed the facts made in his claim statement.

4. Since no issues have been framedin the present case, therefore, terms of reference is taken as the issue. In support of his contention, workmanwas examined himself before this Tribunal. He has reiterated the fact as mentioned by him in his claim statement. Beside this, he has also mentioned the fact that some person were regularized by the respondent, including one Mrs. Usha Devi, who was junior to him and wasappointed as part time sweeper on the basis of frog leap.He had relied upon the following documents:

(i) **MarkA:**Copy of letter dated 09/12/2009 i.e. remunerations of the extra work to the claimant Shiv Kumar.

(ii) **Mark B:** Copy of letter dated 25.09.2014.

(iii) **Mark C:** Copy of list of part time employees of Dehradun Module.

5. Claimant in his cross-examination has admitted that he has no document to prove that he was working as "Dak Runner" in the bank. He could not say whether he was engaged against any regular vacancy. No interview was conducted. However, he denied that he has never worked for continuous period of 240 days during anycalendar year. He was never granted pay slip by the bank.

6. In rebuttal, management had filed affidavit of evidence of Sh. Vishal Singh (Ex. MW1/A), who had reiterated the fact as mentioned by him in his written statement. He submitted that workman was called upon to clean the verandah and parking space outside the bank premises on ten-twelve occasions.

7. Witness in his cross-examination has denied that all the letter correspondences made by the bank with its customer are important. He could not say if the claimant Shiv Kumar was sent to the post office carrying the letter on different dates as suggested to him. He denied that the bank was sending the claimant to the zonal office in connection with the bank's work. He also denied that the claimant was working continuously in the management bank from 17.11.2009 to 04.08.2014 and the bank was engaging him to discharge different types of work. He further submitted that document shown to him appears to contain the seal of the bank but he cannot authenticate the documents as those are photocopies. He had brought the register showing the payment of remuneration to the claimant for the work performed by him. He admitted that as per Ex. MW1/D1 one Mahendra Singh was shown and he received the payment as shown against his name. Mahendra Singh is still working since long back as a casual worker. He has been shown the five documents or attendance sheet of different months of September 2010, January 2011, May 2011, September 2011 & January 2012 bearing the name of the workman as well as the stamp of the bank herein. He had brought the letter signed by Sh. Jitendra Singh, Branch Manager of DAV branch bearing no. 10581, where it was stated that no records in respect of Mark A and B was found in the branch record. Moreover, the record of casual employee who was appointed at daily basis has not been maintained in the branch and the same is Ex. MW1/B.

8. The main issue which is to be decided by this Tribunal is "whether the claimant is an employee of the bank from 17.11.2009 and his services has been terminated illegally and unjustifiably on 04.08.2014".

9. The management relied upon the judgments of **Nilgiri Coop. Mkt. Society Ltd. vs. State of Tamil Nadu and Ors., MANU/SC/0100/2004 (decided on 05.02.2004), Shankar Chakravorty vs. Britania Biscuits Co. Ltd. 1979; Manager, Reserve Bank of India, Bangalore vs. S.Mani and Ors. 2005(5) SCC100, Range Forest Officer vs. S.T. Hadimani 2002 (3)SCC25, Kanpur Electricity Supply Co. Ltd. vs. ShamimMirza, (2009/1 SCC 20), Automobile Association Upper India vs. P.O. Labour Court-II and Anr., 130(2006) DLT 160, Bank of Baroda vs. GhemarabhaiHarijibhaiRabari (2005(10)SCC792); N.C. John vs. Secretary, ThodupuhaTaluk Shop and Commercial Establishment Workers' Union and Ors. [1973 Lab. I.C. 398], Babu Ram vs. Govt. of NCT of Delhi and Anr., 247 (2018) Delhi Law Times 596.**, where it was held that the burden of proving the relationship of employee and employer lies entirely upon the claimant/workman. It has been argued that the claimant has failed to discharge the said burden. It is an admitted case herein that the workman has not brought any letter of appointment. No salary slipshad been issued to him, and whatever payments were made to him through vouchers.

10. Respondent's stand is that the workmanhad been engaged for sweeping and cleaning the premise for ten or twelve times or more and for this payment had to be made to the workman accordingly through vouchers. Workman was never in the employment of the bank. Management has also produced some record in respect to the payment made to him.

11. Claimant has relied upon number of documents showing the payment to the workman on different occasion. Annexure-1 contains 40 pages which the respondent has denied. The workman has also relied upon the document Mark-B which contain the memo as well as the attendance register for the months of Sept. 2010, Oct. 2010, Nov. 2010,

December 2010, January 2011, Feb. 2011, March 2011, April 2011, May 2011, June 2011, July 2011, August 2011, Sept. 2011, October 2011, November 2011, December 2011, January 2012, February 2012, March 2012 and April 2012. In the said register, attendance of one Mahindra Singh was also marked regularly showing the complete working days of these two persons and the management witness has admitted that Mahindra Singh was still working with the branch, so, his stand is that he has proved that he had worked with the management up to 2014 regularly he was paid accordingly.

12. The above said evidence brought by the claimant does not establish the fact that claimant, at any point of time, had worked continuously with the respondent up to the date of alleged termination. It is further his case that he was pressurized by the bank on 04.08.2014 to sign on the blank papers and his services was proposed to be assigned to a contractor, but, still the service of Mahindra Singh which he has alleged to have been working with the bank, has not been brought under the purview of the contractor, and bank has admitted that still Mahindra Singh has been working on daily wage basis. Therefore, the workman has failed to prove that whether he has worked ever240 days in a calendar year. Mere bringing photocopies of attendance sheets along with one Sh. Mahendra Singh, as per annexure A, doesn't establish that he had ever been employed by the bank continuously for four years or he has worked up to 2014, which he has alleged, or he has completed 240 days in a calendar year. Either for proving of the same, he has to call Sh. Mahendra Singh to butteress the above fact that he had worked along with Sh. Mahendra Singh with the respondent continuously up to 2014, which he didn't.

13. In view of the above circumstances, the claimant's claim stands dismissed. Award is passed 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 this file is consigned to record room.

Date: 15.06.2026 ATUL KUMAR GARG, Presiding officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1997.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली -*II*** के पंचाट (13/2009) प्रकाशित करती है।

[सं. एल - 12012/62/2008- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1997.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.13/2009*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi -II* as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen.

[No. L-12012/62/2008- IR(B-I)]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II,

NEW DELHI

I.D. NO. 13/2009

Sh. Suresh Chand, S/o Sh. Kudey Ram,

H.No. 232/01, Bhimgarh Kheri Near Railway,

Gurgaon.

VERSUS

The Regional Manager,

Syndicate Bank,

Regional Office, 48, Neelam Bata Road, NIT,

Faridabad.

Counsels:

For Applicant/ Claimant*:*

Sh. B.K. Pal, Ld. AR.

For Management/ Respondent*:*

Sh. Rajesh Mahendru, Ld. AR.

AWARD

01.07.2026

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) **(Hereinafter referred to as 'the Act')**, the Government of India, through the Ministry of Labour and Employment, vide its Order No. L-12012/62/2008-IR(B-II) dated 06.02.2009, has been pleased to refer the following dispute between the employer, that is the management of Syndicate Bank and their workman for adjudication by this Tribunal in the following terms:

"Whether the action of the Regional Manager, Syndicate Bank, RO, Faridabad in terminating the services of the workman Shri Suresh Chand w.e.f. 7.11.2006 is just, fair and legal? To what relief the concerned workman and from which date is entitled?"

2. Upon receiving the said reference, notices were issued to both claimant and the management. In response to the notice, workman had appeared and filed his claim stating that he had been in the employment of the management where he had been working as "Water Boy cum Attender" with Gurgaon Cantontment Branch w.e.f. 15.05.1988 to 14.06.2006. He had been paid monthly salary on voucher at the rate of Rs. 60/- per day which has been increased to Rs. 80/- per day. He had been carrying out the work regularly in the nature of slip bundling, cash sorting, taking out signature cards from card boxes for verification of signatures of account holders and then putting them back at proper place, filing of papers and even outstation duties were also assigned to the workman at Syndicate Bank Zone office, New Delhi. The management neither issued any appointment letter nor regularized his services; a number of representations for the said purpose were made which had been duly forwarded by Chief Manager/Branch Manager and the officers of the Bank to the higher authorities of the bank so that he would be absorbed in regular service, however, nothing happened. Since the management refused to meet the demand of workman concerned, his services were terminated illegally on 21.09.2006. Subsequently, he took the recourse of conciliation, but it was resulted into failure. Thereafter, the appropriate government referred the matter to this Tribunal for adjudication.

3. Respondent filed the written statement. it denied the employee-employer relationship between the workman and the management, however, it submitted that claimant was unauthorisedly engaged by the Branch Manager as casual labour for bringing potable water from outside during the shortage of water in the branch. It is settled law that the respondent being a nationalized bank, any appointment in any category can only be made as per the recruitment procedure prescribed for the post. On merit, management has also submitted that the claimant was engaged for fetching potable water to the branch as and when required and was paid coolie charges for the same. Claimant never performed any duties of the temporary attender at any branch as alleged by him. Hence, the management submitted that claim of the claimant is misconceived and is liable to be rejected.

4. Rejoinder had been filed by the claimant. He has denied the averment made in the management's written statement and affirmed the facts mentioned in his claim statement.

5. Though no separate issues were formally framed for adjudication in the present case, the terms of reference were treated as the issue for determination.

6. Workman, in support of his contention, had examined himself. He has reiterated the facts as mentioned in his claim statement. Additionally, he had deposed the fact that he has worked under officers of the bank namely Sarvashir Sublok, Atma Ram, K.P. Rao, H.K Nayak, Balraj, K.K. Pal, R.B. Uppal, Suresh Sharma, P.R. Tondon. M.C. Gupta, Shivcharan, D.B. Chattopadhay, T.B. Chawtani, Chokar Varmani, R.P. Jindal and O.P. Kohli who worked as CM, Manager and RO in the years 1988,1997-1998, 1999, 2000, 2004-2008 respectively. He further deposed that vide letter dated 18.06.2000, Chief Manager of Syndicate Bank, Gurgaon Branch has recommended his name for part time work. His name was again forwarded vide letter dated 24.09.2006 for regular appointment as attender cum-water boy at bank's branch office at Faridabad. He has relied upon the several documents i.e.:

(I) **Ex. WW1/1 to Ex. WW1/58:** Photocopies of the vouchers for the years 1992, 1993, 1998, 2005 & 2006

(II) **Ex. WW1/59:** Copy of letter dated 18.06.2000 written by the Chief Manager.

(III) **Ex. WW1/60:** Copy of letter dated 24.09.2006.

(IV) **Ex. WW1/61:** Copy of performa dated 06.09.2006 which was signed by workman.

(V) **Ex. WW1/62:** Copy of circular dated 22.08.2006.

(VI) **Ex. WW1/63:** a letter dated 30.10.2006 written by Senior Manager, Airforce Station, Gurgaon to the Regional Manager, Faridabad regarding payments made to the claimant.

7. Workman was put to the test of cross-examination. He denied that the vouchers placed on record i.e. Ex. WW1/1 to WW1/58 do not belongs to him. He also denied that he never performed the duty of Peon/Attender from 15.05.1988 to 14.06.2006 and also denied that he did not work for 240 days in any calendar year. He denied that he was only engaged for bringing water outside and for which collie charges were paid to him and apart from that he has not performed any other work in the bank. Remaining cross-examination was related to his employment as well as unemployment. He submitted that he is educated upto 5th standard. No appointment letter was issued in his favour. His attendance was not marked in the attendance register. He voluntarily stated that the Branch Manager used to mark his attendance on a separate sheet. He also submitted that there was scarcity of drinking water in Main Branch, Gurgaon of the Bank. He denied that he used to work as a Water Fetcher for one or two hours in a day.

8. In rebuttal, management has examined its one witness **Sh. Tuhi Ram**. He has reiterated the facts as mentioned in his written statement. Sh. Tuhi Ram (MW1) in his cross-examination stated that he has worked as Senior Manager from May 2003 to June, 2007 and thereafter July, 2013 to 31.05.2015. He admitted that he was not working in the branch during the relevant time. He is aware of the content of the document marked as **Ex. WW1/62**. He admitted that the document marked as **Ex. WW1/60** refers to the document of the branch but not by the regional office. He further admitted that the document marked as Ex. WW1/61 is a document prepared in the format issued by the bank to its branches for furnishing details like the carpe area of the branch and the Badli Sweepers working there. Ex. WW1/59 is the document relating to the appointment of part time sweepers in the bank written by the branch manager to the regional office. He cannot say if the vouchers marked as Ex. WW1/1 to Ex. WW1/58 are the acknowledgement of payment of wages to the workman. He denied that the workman was terminated from the service by the bank, since, there exists no relationship.

9. Thereafter, respondent had examined another witness i.e. **Sh. Bhushan Vashishtha**, who had worked in the branch from 2005 to 2009. This witness was cross-examined where he admitted that he worked for the Syndicate Bank from 1984 to 31st March, 2021. He deposed the fact that he joined the Gurgaon Branch of the bank as Assistant Manager and continued till June, 2009. He submitted that bank had no record of Suresh Chand working in the bank for any purpose, but, he came across the vouchers during the period from 2005 to 2009 showing payment to the claimant. He admitted that the claimant was working in the branch of the bank at Gurgaon. He again said that at the time of need on account of leave of regular employee, they were calling Suresh Chand to the branch for providing water to the employees. He admitted that claimant was discharging the work whatever is assigned to him under the supervision of the senior branch manager. He could not say if the name of the claimant for regularization of his service was recommended by the union to the management bank. He admitted that attendance record of the claimant for the relevant period was being maintained by the senior manager of the bank and on the basis of the same, the payment was being made to him.

10. Whole of the case of the claimant rests upon the premise that he had worked with the respondent from the year 1988 to 2006 and he has been made payment accordingly. MW2 has admitted that claimant had worked with the respondent branch as Water Boy. He had not denied that the claimant was discharging the work, rather than, he has admitted in a positive manner that claimant was discharging the work "Waterboy" assigned to him under the supervision of Senior Branch Manager. So, he submits that he has proved his case that he has served the branch as "Waterboy cum Attender", so, his termination is illegal.

11. On the other hand, the management's stand rests on the premise that the claimant was not issued any appointment letter. He had further relied the case of **State of Karnataka vs. Uma Devi and Ors., Civil Appeal Nos. 3595-3612 of 1999**, where the Hon'ble Supreme Court has held that unless employment is made as per the relevant rules and after a complete competition among the qualified candidates, the same would not confer any right on the appointee. Management's has stated that claimant was engaged for fetching potable water to the branch as and when required and was paid Collie charges for the same and he never performed any duties of the temporary Attender at any branch as alleged by him.

12. Management further drawn the attention to this Tribunal towards the cross-examination of the claimant where the claimant had admitted that Zonal Office is empowered to appoint someone against a post and a Branch Manager has no powers to appoint someone against a post. He further admitted that there is no post of known as "Waterboy cum Attender". Post was not advertised. His name was not sponsored by employment exchange. He has relied upon the judgments of ***Bhavnagar Municipal Corporation vs. Jadeja Govubha Chhanubha, (2014) 16 SCC 130 and Manager, Reserve Bank of India, Bangalore vs. S. Mani, (2005) 5 SCC 100.*** The Hon'ble Supreme Court in ***Mukand Ltd. vs. Mukand Staff & Officers, (2004) 10 SCC 460,*** where it is held as under:

"36. We, therefore hold that the reference is limited to the dispute between the company and the workmen employed by them and that the Tribunal, being the creature of the Reference, cannot adjudicate matters not within the purview of the dispute actually referred to it by the order of reference."

13. I have heard the arguments advanced by both parties and perused the record. Though, it is admitted by the management that the claimant was engaged by them, it denied that the claimant had completed 240 days of service in a calendar year. However, the claimant has Exhibited a number of vouchers (Ex. WW1/1 to Ex. WW1/58), which establish that he had worked with the management continuously for a long period and had completed more than 240 days of service in a calendar year. The management has also failed to dispute the said vouchers. On the contrary, MW2 admitted that the claimant was working in the branch, his attendance was maintained by the Senior Branch Manager and payment was made on the basis of attendance.

14. The claimant's case is further supported by Ex. WW1/62, whereby the management invited applications from eligible temporary employees for regularisation against vacant posts of Attenders. In pursuance, the claimant filled up the prescribed proforma (Ex. WW1/61), which has not been disputed by the management. Further, vide letter Ex. WW1/59, the Chief Manager sent the claimant's application to the Regional Office describing him as **'Water Boy working at his branch.'** Further, the document (Ex. WW1/63) is a letter written by the Senior Manager where he informed the Regional Manager that the claimant was being paid wages at the rate of Rs. 80/- per day as labour charges and requested posting of one regular Attender at the branch. These documents clearly establish that the claimant had been continuously working in the branch under the management.

15. In view of the documentary evidence on record, this Tribunal is of the view that the claimant has successfully established the employer-employee relationship with the management.

16. Now, the next question that arises for consideration is whether the services of the services of the claimant was terminated illegally by the management. Before proceeding further, the language of Section 2(oo), which defines the term 'retrenchment', and Section 25F of the Act, which sets out the conditions to be complied with by an employer before retrenching a workman, is required to be reproduced herein:

[(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;]

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 2 [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 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

17. From the perusal of the above sections, it is clear that in industrial law, there is no absolute protection given to the claimant/workman against retrenchment under the Industrial Disputes Act, 1947. An employee can be retrenched by an employer if certain conditions are fulfilled. The first exception has been provided within the definition itself, namely when a workman is terminated by way of disciplinary action. Other exceptions include voluntary retirement, superannuation as per contract, non-renewal or termination of a contract on its expiry, and termination due to continued ill-health.

18. In the present case, the management has neither pleaded nor proved that the termination of the claimant falls within any of the exceptions contained in Section 2(oo) of the Act. Rather, its only defence is that the claimant was merely engaged on a casual basis for fetching potable water and, therefore, there existed no employer-employee relationship. This Tribunal has already given finding of employer-employee relationship between the claimant and the management.

19. Since the management has denied the relationship of employee-employer between it and the claimant, no question arises that it ever complied with the conditions as set out in section 25F of the Act, before terminating the claimant. Moreover, there is nothing on record to show that the claimant was served with one month's notice or paid wages in lieu thereof, retrenchment compensation was paid, or notice was served upon the appropriate Government in the prescribed manner. Non-compliance with the mandatory conditions prescribed under Section 25F renders the retrenchment illegal and unjustified. Accordingly, the termination of the claimant is held to be illegal and unjustified.

20. Further, the question that arises is with regard to the relief to which the claimants are entitled to. As a general rule, where termination is declared illegal, the appropriate relief is **reinstatement with full back wages.** However, it has been held by the Hon'ble Supreme Court of India in **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 where the termination is held illegal and compensation can be granted instead by the industrial adjudicator. Similar views were expressed by the Hon'ble High Court of Delhi in Indian Hydraulic Industries Pvt. Ltd. vs. Kishan Devi and Bhagwati Devi & Ors., wherein it was held that even if the termination is found to be illegal, the relief of reinstatement with full back wages need not be granted automatically and the relief may be moulded according to the facts and circumstances of each case, including grant of compensation in lieu of reinstatement and back wages. The same principle has been reiterated by the Hon'ble Supreme Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik (2025 (INSC) 218)**, wherein it was held that reinstatement with full back wages is not an automatic relief and, in appropriate cases, lump sum compensation may be a more suitable relief. Since, in the present case, the claimant had worked as daily rated job of water boy in the bank, regularization of the service is not an appropriate relief.

Considering the facts and circumstances of the present case and keeping in view of long service of 18 years which the claimant did with the management and prolonged litigation faced by the claimant, lump-sum compensation of Rs. 7,00,000/- (Rupees Seven Lakhs Only) to the claimant is considered an appropriate relief in lieu of reinstatement. Accordingly, a lump-sum compensation of Rs. 7,00,000/- (Rupees Seven Lakhs Only) is awarded to the claimant in lieu of reinstatement and back wages. The management is directed to pay the said amount within two months from the date of publication of this Award, failing which the amount shall carry interest @ 8% per annum from the date of the Award till its realization.

A copy of this Award be sent to the Appropriate Government for notification under Section 17 of the Industrial Disputes Act, 1947. The file be consigned to the Record Room.

Date: 01.07.2026 ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 1998.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बीएचईएल** का प्रबंधन और **ठेका मज़दूर संघ, बीएचईएल** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या -01/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42011/142/2016 -आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 1998.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. 01/**2018)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Management of BHEL,** and **Theka Mazdoor Sangh, BHEL** workman.

[No. L-42011/142/2016 /-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/01/2018

Present: P.K.Srivastava, H.J.S..(Retd)

Theka Mazdoor Sangh, BHEL,

Bhopal LIG – 27/3,

C- Saket Nagar, Bhopal,

Bhopal (M.P.) – 462001

Workman

Versues

Executive Director,

Management of BHEL,

Bhopal (MP) - 462001

Management

AWARD

(Passed on this 27th day of February, 2026)

As per letter dated 09/01/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **L-42011/142/2016 (IR(DU))** dt. 09/01/2018. The dispute under reference relates to:

"***Whether the 43 points of demand (as per annexure) of Thekka Mazdoor Sangh, BHEL, and Bhopal against the management of General Manager, BHEL, Bhopal is legal and justified? If not, to what relief the workmen/union is entitled to and to what extend?***"

Case of the Workman Union is mainly that, they are a registered Trade Union, registration No. 411 and are recognized by the Management. The Management of **BHEL** is Central Government public undertaking, controlled by the Union of India. One of its Units is in Bhopal which is engaged in manufacturing of heavy electrical goods and equipments. It has employed its employees directly which are around two thousands skilled and unskilled workers and also through various contractors to carry on various duties, functions and activities in the factory. These workers are discharging the same duties discharged by the permanent employees of the Management. All of them have worked continuously for more than 240 days in every year. They have been granted artificial break just to deny them benefits of regularization. Union has furnished a detailed chart of such workers including the year since they are working which is marked as ***Annexure-3*** to the statement of claim. It is further alleged that, these works are of permanent and perennial nature. Hence, the so called Contracts are just a sham and camouflage adopted by the Management of BHEL to deny these workmen the benefit of permanency in status and regularization. These workmen are doing the same duties discharged by the regular employees of the Management as well they are not being paid equal wages which is in violation of Contract Labour (Regulation and Abolition) Act, 1970 and against basic principle of equal pay for equal work. Thus, according to Workman Union, the Management of BHEL has adopted unfair labour practice by engaging the Workmen as contract labour under sham contracts for more than 20 years with a view to deny them benefit of permanent status and regularization to which they are entitled to along with equal pay for equal work. They have raised a dispute in this respect before the concerned Labour Commissioner, which could not be conciliated, hence this reference.

The Workman Union has thus prayed that, holding the contracts sham and camouflage and that the Management of BHEL has adopted unfair labour practice, these workmen be held entitled to be regularized and granted permanent status. Also be held entitled to pay, equal to those workmen in employment of the Management of BHEL discharging the same nature of duties.

Speed post notices were sent to the Management. They were served on them vide order dated 06.02.2020 and 05.01.2022 but none appeared on their behalf, hence the case proceeded ex-parte against the Management.

The Workman Union has filed affidavits of its Office Bearer and has proved a list of 70 workmen as Exhibit W-1.

None was present at the time of argument. The case was fixed for Award. Thereafter, written submissions have been filed by the Learned Counsel for Workman Union Mr. Amit Nagpal which has been taken on record. I have gone through the record as well the written submissions.

At the very outset, the reference speaks as to whether 43 demands (as per Annexure to the reference) which is not sent with the reference raised by the Union, are legal and justified. I am constrained to observe that the Officer, who had made the reference to this Tribunal, is not well versed in Industrial Dispute Act, 1947. He was under obligation in law to frame the dispute in the reference in a specified manner which qualifies to be an Industrial Dispute under Section 2(k) of the Act.

Section 2(k) of the Act defines Industrial Disputes, which is being reproduced as follows –

2(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

The list of demands has been filed by the Workman Union which is Annexure W-4 to the statement of claim. They are like distribution of shoes, distribution of blazers, payments of stitching charges, increasing gift amount etc., most of them do not qualify to be Industrial Dispute under Section 2(k) of the Act. In its statement of claim also, the Workman Union has confined itself to one issue which is grant of permanent status and regularization of the Workmen and equal pay for equal work to those who have been employed as Contract Workers and working within the factory premises since 20 years, discharging the same duties which are discharged by the regular and permanent employees of the Management.

From the perusal of affidavit of Office Bearer as his examination in chief in which he has corroborated his allegations in his statement of claim and Exhibit W-1 which is list of the Workmen employed with their details and year of appointment goes to show everyone of these workmen has been working since more than 20 years. The oldest workman in this list is since 1981 and the youngest is working since 1995. This list also contains the duties these workmen are discharging. All these allegations and list are uncontroverted. Hence, from the above evidences it is proved that duties which these 70 workmen are discharging or have been discharging are of permanent and perennial nature.

Section 10 of Contract Labour (Regulation and Abolition) Act, 1970, prohibits engagement of Contract Labour in works of permanent and perennial nature which is being reproduced as follows.

"Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 is reproduced as follows –

10. Prohibition of employment of contract labour.-

> ***(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.***
>
> ***(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour that establishment and other relevant factors, such as-***
>
> > ***(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment ;***
> >
> > ***(b) whether it is of perennial nature, that is to say, it is so of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment ;***
> >
> > ***(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;***
> >
> > ***(d) whether it is sufficient to employ considerable number of whole-time workmen.***

It is established that these workmen have been engaged as Contract Workers, just with sole aim of denying them their legally admissible rights with respect to permanent status and regularization. Also established is the fact that these workmen have worked at the site of management, instruments were supplied to them by management and they have been working under control, supervision and direction of management. These established facts lead to the conclusion that the contracts are nothing but sham, a camouflage adopted by management to deny these workmen their legally admissible rights of permanency in status and regularization.

Section 2(ra) read with Clause 10 of 5th Schedule of the Act defined unfair labour practice by the employer, which is being reproduced as follows –

2(ra) ***10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.***

From perusal of evidences in the case in hand, in the light of aforesaid provisions, it is established that in this case, the Management has adopted unfair Labour Practice by engaging these workmen for at least more than 25 years on jobs or duties which are of permanent and perennial nature. **Section 25T and 25U** of the Act prohibits unfair Labour practice. They are being produced as follows –

25T. Prohibition of unfair labour practice.—

"No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice."

25U. Penalty for committing unfair labour practices.—

"Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both."

As it is established, unfair labour practice is a crime, punishable under the Act; this is one aspect of the matter. Its civil consequence also as it is happen in the case in hand when it is proved that the Management has adopted unfair labour practice, which is a crime. This Tribunal is not without powers to undo the Civil Consequence by way of such an Act prohibited under Law.

Learned counsel as further referred to following paragraphs of the judgment referred ***Sudarshan Rajpoot v/s U.P. State Road Transport Corporation (2015) II, SCC 317*** ***which are being reproduced as follows:-***

11. It has been contended by the learned counsel for the appellant workman that the High Court has erred in placing reliance upon the decision of this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , which was distinguished inasmuch as the said case is not applicable to the case on hand for the reason that the appellant workman is a "workman" as defined under Section 2(z) of the UPID Act and the respondent is the statutory corporation which is an undertaking of the State Government and therefore, as it is an instrumentality of the State Government, it will come within the definition of "industry" as defined under Section 2(k) of the UPID Act. Therefore, the said provisions of the UPID Act are applicable to the appellant workman as he is a "workman" as defined under Section 2(z) of the UPID Act and Section 2(s) of the ID Act, 1947.

12. Further, it is contended that the High Court has failed to consider the "unfair labour practice" as defined under Section 2(ra) of the ID Act, 1947 read with Sections 25-T and 25-U and Schedule V of the ID Act. Item 10 of Schedule V of the ID Act prohibits the employer to employ workmen as badlis, casuals or temporaries and to continue them as such for years in the Corporation, with the object of depriving them of the status and privileges of permanent workmen is prohibited. It is further contended that the respondent Corporation is liable for penal action under the provisions of Section 25-U of the ID Act. In support of the above contention, reliance was placed on the three-Judge Bench decision of this Court in Chief Conservator of Forests v. Jagannath Maruti Kondhare [Chief Conservator of Forests v. Jagannath Maruti Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] .

13. On the other hand, the learned counsel appearing on behalf of the respondent Corporation sought to justify the correctness of the finding and reasons recorded by the High Court in the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] . Alternatively, it is contended that even if the order of termination is bad in law, the workman who is working on the contract basis is not entitled for reinstatement with full back wages as per the view taken by this Court in several decisions. Therefore, the learned counsel for the respondent Corporation submits that the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] and order need not be interfered with by this Court in exercise of its appellate jurisdiction.

14. With reference to the abovesaid rival legal contentions the following substantial questions would arise for our consideration:

14.1. (i) Whether the High Court is justified in passing the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] , order and reversing the award passed by the Labour Court?

14.2. (ii) Whether the order of termination passed against the appellant workman amounts to retrenchment as defined under Section 2(s) of the UPID Act, 1947?

14.3. (iii) Whether non-compliance with the statutory provisions under Sections 6-N and 6-Q of the UPID Act which are analogous with Sections 25-F and 25-H, respectively, of the ID Act, 1947 renders the order of termination void ab initio in law?

14.4. (iv) What relief is the appellant workman entitled to?

15. To answer the above substantial questions of law it is necessary for this Court to extract the order of termination passed by the Assistant Regional Manager of the Corporation, which reads thus:

"OFFICE OF ASSISTANT REGIONAL MANAGER,

U.P. TRANSPORT CORPORATION, AZAD NAGAR DEPOT

Letter No. ARM/A. Ngr/Bus Accident 0582/2000/3591 dated 29-7-2000

OFFICE ORDER

On 7-6-1999 vehicle bearing No. 8582 which had met with an accident which was being driven on 7-6-1999 by Shri Sudarshan Rajpoot, contractual driver and conductor Shri Kamta Prasad on Deoria to Kanpur route and accident occurred on the way at 1.30 a.m. in the night at Village Palhari, Barabanki near Police Station Safdarganj and due to negligent driving of the driver, department suffered heavy loss.

Hence, in order to meet departmental loss, forfeiting security of driver Shri Sudarshan Rajpoot, I pass the order to strike off his name from the contract roll with an immediate effect. His name be struck off from contract roll.

sd/-

(Illegible)

(Sad Sayed)

Assistant Regional Manager,

Azad Nagar, Depot"

(emphasis supplied)

In the aforesaid order of termination it is specially mentioned that the appellant workman was appointed as a driver on contractual basis. It has been further stated that the accident occurred on 7-6-1999 due to the negligent driving of the appellant workman resulting in heavy loss to the Department of the respondent Corporation. In order to meet the departmental loss, security amount of driver was forfeited and Assistant Regional Manager had struck off the name of the appellant workman from the contract employees roll with immediate effect.

16. The respondent Corporation has neither produced documentary evidence nor showed before the Labour Court that the appellant workman was appointed on contract basis. The fact that he deposited Rs 2000 towards security amount with the respondent Corporation indicates that he was working as a driver on a permanent basis. In view of Schedule V, Item 10 of the ID Act, 1947 the respondent Corporation is prohibited from engaging the appellant workman as a badli, casual or temporary workman to work on permanent basis. The fact that he had been continuously working for more than 3 years and he had rendered more than 240 days of service as the driver in a calendar year until his termination order and yet he is being engaged on a contractual basis in the respondent Corporation is statutorily prohibited. The same amounts to an unfair labour practice as defined under Section 2(ra) read with Section 25-T, which action of the Corporation is punishable under Section 25-U of the ID Act. This legal position is settled by this Court in Chief Conservator of Forests case [Chief Conservator of Forests v. Jagannath Maruti Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] wherein it was held as under : (SCC pp. 302-03, para 22)

"22. … In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if badlis, casuals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from the materials on record we are satisfied that the 25 workmen who went to the Industrial Court of Pune (and 15 to the Industrial Court, Ahmednagar) had been kept as casuals for long years with the primary object of depriving them of the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered, that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on the increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If, even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants."

25. This Court in the later judgment in Hari Nandan Prasad v. Food Corporation of India [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , after adverting to the law laid down in U.P. Power Corpn. Ltd. v. Bijli Mazdoor Sangh [(2007) 5 SCC 755 : (2007) 2 SCC (L&S) 258] and Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] wherein Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is adverted to in both the cases, held that on a harmonious reading of the two judgments, even when there are posts available, in the absence of any unfair labour practice the Labour Court cannot give direction for regularisation only because a worker has continued as daily-wage worker/ad hoc/temporary worker for number of years. Further, such a direction cannot be given when the worker concerned does not meet the eligibility requirement of the post in question as per the recruitment rules:

25.1. It was held at para 32 in Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] as under : (SCC p. 211)

> ***"32. However, the Court in Maharashtra SRTC case [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] found that the factual position was different in the case before it. Here the post of cleaners in the establishment were in existence. Further, there was a finding of fact recorded that the Corporation had indulged in unfair labour practice by engaging these workers on temporary/casual/daily-wage basis and paying them paltry amount even when they were discharging duties of eight hours a day and performing the same duties as that of regular employees."***

25.2. Further, Hari Nandan Prasad [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] referred at para 36, LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] in which the relevant para 22 of LIC case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213)

> ***"36. … '22. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counterproductive battles and the assurance of industrial justice may create a climate of goodwill.' (D.J. Bahadur case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] , SCC p. 334, per Krishna Iyer, J.)***
>
> ***In order to achieve the aforesaid objectives, the Labour Courts/Industrial Tribunals are given wide powers not only to enforce the rights but even to create new rights, with the underlying objective to achieve social justice. Way back in the year 1950 i.e. immediately after the enactment of the Industrial Disputes Act, in one of its first and celebrated judgment in Bharat Bank Ltd. v. Employees [1950 SCC 470 : AIR 1950 SC 188 : 1950 LLJ 921 at p. 948] this aspect was highlighted by the Court observing as under : (AIR p. 209, para 61)***
>
> > ***'61. … In settling the disputes between the employers and the workmen, the function of the Tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace.'"***

25.3. And again at para 37, observing that the aforesaid sweeping power conferred upon the Tribunal is not unbridled and is circumscribed by this Court in New Maneck Chowk Spg. & Wvg. Co. Ltd. v. Textile Labour Assn. [AIR 1961 SC 867] , the relevant para 6 of which is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213, paras 37-38)

> ***"37. … '6. … This, however, does not mean that an Industrial Court can do anything and everything when dealing with an industrial dispute. This power is conditioned by the subject-matter with which it is dealing and also by the existing industrial law and it would not be open to it while dealing with a particular matter before it to overlook the industrial law relating to that matter as laid down by the legislature or by this Court.' (Textile Labour Assn. case [AIR 1961 SC 867] , AIR p. 870)***
>
> ***38. It is, thus, this fine balancing which is required to be achieved while adjudicating a particular dispute, keeping in mind that the industrial disputes are settled by industrial adjudication on principle of fair play and justice."***

26. In view of the aforesaid statement of law laid down by this Court after adverting to the powers of the Industrial Tribunal and the Labour Court as interpreted by this Court in the earlier decisions referred to supra, the said principle is aptly applicable to the fact situation of the case on hand, for the reason that the Labour Court recorded a finding of fact in favour of the workman that the termination of services of the appellant herein is not legal and valid and further reaffirmed the said finding and also clearly held that the plea taken in the order of termination that he was appointed on contract basis as a driver is not proved by producing cogent evidence. Further, we hold that even if the plea of the employer is accepted, extracting work though of permanent nature continuously for more than three years, the alleged employment on contract basis is wholly impermissible. Therefore, we have held that it amounts to an unfair labour practice as defined under Section 2(ra) of the ID Act, 1947 read with Section 25-T which is prohibited under Section 25-U, Chapter V-C of the ID Act, 1947. We have to hold that the judgment of the High Court in reversing the award is not legal and the same is set aside by us.

21. In the order of termination, it is alleged that on account of negligent driving of the bus by the appellant workman the accident of the vehicle happened, the said allegation was neither proved in the inquiry required to be conducted nor producing evidence before the Labour Court by the respondent Corporation. Therefore, the High Court has failed to examine the above vital aspects of the case on hand and erroneously interfered with the award

passed by the Labour Court in exercise of its extraordinary and supervisory jurisdiction under Articles 226 and 227 of the Constitution of India. This exercise of power is contrary to the law laid down by this Court in Harjinder Singh v. Punjab State Warehousing Corpn. [(2010) 3 SCC 192 : (2010) 1 SCC (L&S) 1146] , wherein this Court held thus : (SCC p. 205, para 21)

> ***"21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and/or 227 of the Constitution in matters like the present one, the High Courts are duty-bound to keep in mind that the Industrial Disputes Act and other similar legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:***
>
> > ***'10. … the concept of social and economic justice is a living concept of revolutionary import; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.'***
>
> ***(State of Mysore v. Workers of Gold Mines [AIR 1958 SC 923] , AIR p. 928, para 10.)"***

24. We are of the opinion that the view taken in Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] at para 36 after distinguishing Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is the plausible view. Therefore, we have to hold that the finding of the High Court in setting aside the finding of fact recorded by the Labour Court in its award by applying Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is wholly untenable in law. Therefore, the same is set aside by this Court.

23. Further, the reliance placed upon the decision of this Court on Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] by the High Court to reverse the finding of fact recorded in the award in favour of the workman in answering the points of dispute in the negative, is not tenable in law in view of the judgment of this Court in Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] , wherein, this Court after adverting to Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] at para 36, has held that the said case

> ***"does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist". (SCC p. 574)***

Further, this Court held that : (SCC p. 574, para 36)

> ***"36. … Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established."***

The referred case can be distinguished from the facts in hand that the workman was held not contractual employee rather was found the regular employee of the management but the principles laid down by Hon'ble Court are of much significance.

Reference may be taken of judgment of Hon'ble Supreme Court in the case of <u>Jaggo v/s Union of India reported in (2024) SCC Online SC 3826</u> , the relevant paragraphs of this judgment are being reproduced as follows:-

> ***"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. ……***
>
> ***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 labelled 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."

The principle laid down in the case of Jaggo (Supra) has been followed by Hon'ble Supreme Court in the case of Shripal Vs. Nagar Nigam Ghaziabad in Civil Appeal No. 8157/2024 (2025 INSC 144). The relevant portion of the said judgment is being reproduced as follows:-

"12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent. 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 (supra) 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. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a recent judgement of this court in Jaggo v. Union of India

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period. 18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:-

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from thereof their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms."

The following observations of Hon'ble Supreme Court in the case of <u>Dharam Singh Vs. State of U.P. 2025 INSC 998</u> are being reproduced as follows –

17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it Civil Appeal No. 8558 of 2018 17 is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.

19. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:

i. Regularization and creation of Supernumerary posts: All appellants shall stand regularized with effect, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. Or regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. Financial consequences and arrears: Each appellant shall be paid as arrears the full difference between

(a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and

(b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization/retirement/death, as the case may be. Amounts already paid under previous interim directions shall be adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. Retired appellants: Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgement.

iv. Deceased appellants: In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgement.

v. Compliance affidavit: The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgement.

We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of, but obligations under Articles 14, 16 and 21 of the Constitution of India."

One more argument of Learned Counsel for the Workman Union is that, since these Workmen have been discharging the duties discharged by the regular employees of the Management and this fact is corroborated by the evidence of the Union Representative, not controverted by the Management, they are held entitled to the minimum of scale, being paid to the regular employees of Management of BHEL, discharging the same duties since the date of their first appointment. My this view is supported by the Judgment of Hon'ble Supreme Court in the **Case of State of U.P. Vs. Puti Lal 2006 (09) SCC 337 (Para 5)**. Reference of ***Rule 25 of Contract Labour (Regulation and Abolition) Rules, 1970*** is also required to be taken which is reproduced as follows in this respect.

> ***Rule 25 (v)(a) in cases where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other condition of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work: Provided that in the case of any disagreement with regard to the type of work the same shall be decided by the Chief Labour Commissioner (Central).***

In the light of these provisions and law referred to above, the workmen in the list are held entitled to wages on rates equal to those directly employed workers of BHEL discharging the same and similar kind of work as discharged by these workmen.

On the basis of above discussion and findings, the reference is answered as follows.

AWARD

1. ***The Management of BHEL /Opposite Party is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of Award, duly considering the fact that they have performed perennial duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Management shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.***

2. ***The workmen in the list are held entitled to wages on rates equal to those directly employed workers of BHEL discharging the same and similar kind of work as discharged by these workmen, to be paid to them within six months from the date of Award, failing which interest @6% per annum from the date of Award till payment.***

Date: 27.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 1999.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली –*II*** के पंचाट (52/2014) प्रकाशित करती है।

[सं. एल – 12012/36/2014- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 1999.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.52/2014*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi – II* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12012/36/2014- IR(B-I)]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No. 52/2014

Sh. S.K. Oberai vs. Punjab National Bank

Shri S.K. Oberai,

R/o-B-3/241, Raghuvir Nagar,

New Delhi-110027. …Applicant/Claimant

Versus

Punjab National Bank,

Circle Office, Muzaffarnagar,

68 Kambalal Wala Bagh, New Mandi,

Muzaffarnagar-251001. …Management/respondent

Counsels:

For Applicant/ Claimant*:*

Sh. Ashok Sabharwal, Ld. AR.

For Management/ Respondent*:*

Sh. Rajat Arora and Sh. Niraj Kumar, Ld. ARs.

AWARD

16.06.2026

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-12012/36/2014-IR (B-II) dated 01.07.2014, has been pleased to refer the following dispute between and for adjudication by this Tribunal in the following terms:

"Whether the action of management of Punjab National Bank through its Dy. General Manager, PNB Bank, Muzaffarnagar, UP in dismissing the services of the disputant Shri S.K. Oberai vide its order dated 29.01.2011 is fair and just. What relief the disputant is entitled to and from which date?"

The case of the Workman is that he was employed with Punjab National Bank as a SWOPR A at its Sadholi Kadeem Branch, Saharanpur, and his service conditions were controlled by the Industry Level Bipartite Settlements and circulars of the Bank. The Workman submits that during the course of his employment, an unfortunate incident took place in the month of November, 2010. He was arrested by the police on the night of 29.11.2010/30.11.2010 in connection with alleged shortage of cash at the branch. Consequent to his arrest and custody, the Bank suspended him by order dated 30.11.2010. On the same date, one Vijender Singh, a local resident, allegedly lodged a complaint before the Branch Manager of the Bank claiming that on 04.11.2010 he had deposited a sum of ₹3,00,000/-, for which the Workman had given him a receipt, but the said sum was not credited into his account. According to the Workman, this complaint was concocted, false, and motivated, and it was used by the Management to frame charges against him.

The Workman states that despite his being in judicial custody, the Chief Manager, Circle Office, Muzaffarnagar, acting allegedly as Disciplinary Authority, issued a charge-sheet to him on 14.01.2011 alleging misconduct in relation to the said complaint. It is his case that the said Chief Manager was not competent to initiate disciplinary proceedings against staff, in view of the Bank's HRD Circular No. 86 dated 05.06.2002, which prescribed that only the Assistant General Manager or higher authority was vested with the powers of disciplinary authority in respect of such staff. Therefore, the very initiation of disciplinary proceedings is without jurisdiction and makes the entire process *void ab-initio.*

The Workman further submits that even without giving him any chance of defence, the Management acted with undue haste. On 19.01.2011, i.e. just five days after issuance of the charge-sheet, the said Chief Manager appointed an Enquiry Officer and Presenting Officer. The enquiry was fixed for 24.01.2011, and on the following day, 25.01.2011, the enquiry was actually conducted inside the jail premises where the Workman was detained. The Workman refers to the fact that such arbitrary proceedings was conducted while he was in judicial custody and without the presence of a defence representative of his choice, which amount to violation of principles of natural justice. He submits that the Enquiry Officer examined management's witnesses and took on record certain documents, including another complaint dated 18.01.2011 allegedly made by Sh. Vijender Singh. The latter complaint was never provided to him in advance or noted in the Charge-sheet, but was used against him in the enquiry.

According to the Workman, the enquiry was not only initiated but also completed in a single day in the most mechanical manner. On the same day, the Presenting Officer submitted his written brief, the Enquiry Officer prepared and submitted his report, and the Disciplinary Authority supplied a copy of the said report to the Workman with a call to submit his reply by 28.01.2011. The Workman asserts that it was humanly impossible for him, being in custody and without the legal assistance, to effectively prepare and file a reply within such short period of time. However, on 29.01.2011, without waiting for any meaningful defence from him, the Disciplinary Authority passed an order dismissing him from service.

After his release from jail on 26.10.2012, the Workman preferred a statutory departmental appeal, placing on record elaborate submissions, including documentary evidence in support of his innocence. However, the Appellate Authority, by order dated 02.04.2013, dismissed the appeal in the most mechanical manner, without considering the points raised. He argues that the Appellate Authority did not apply its mind, failed to address the grounds raised, and thus failed in its duty of giving a fair and independent consideration. Thus, according to him, the appellate order is liable to be vitiated by non-application of mind and prejudice. It is further submitted that the entire action of the Management is liable to be set aside on several grounds. Firstly, the charge-sheet itself is invalid as it was issued by an authority not competent under the relevant service rules and circulars. Secondly, the charges are based solely on the complaint of Vijender Singh which, according to the Workman, is false and contradictory. He stated that in the appellate proceedings before the Consumer Forum, the Bank itself admitted that there was no deposit of ₹3,00,000/- in the account of Vijender Singh on 04.11.2010. The statement of account also contradicts the allegation of such deposit. Therefore, the very foundation of the charge stands nil. Thirdly, the Workman asserts that the enquiry proceedings was a gross violation of natural justice. He was not supplied with the list of documents or their copies along with the charge-sheet. Additional documents, including the second complaint of Vijender Singh, were added in the middle and were used without providing him an opportunity to challenge the same. The proceedings were held in jail, in English language, although he had specifically requested that the proceedings be conducted in Hindi and he be provided with the facility of a defence representative. His request was arbitrarily denied. The enquiry was completed in one sitting, without providing him with sufficient time to cross-examine witnesses or to present his own defence. The management's witnesses were either interested officials or coached, and their evidence is unreliable. Importantly, Vijender Singh, the complainant himself, was never examined, thus denying him of the opportunity to prove the validity of the allegations.

The Workman also urges that the alleged receipt for ₹3,00,000/- is without his signature, and he never issued any such receipt. The reliance placed on CCTV footage is misplaced, as the footage did not capture Vijender Singh visiting the branch on 04.11.2010. The enquiry officer still proceeded on assumptions instead of going on legal evidence. The Disciplinary Authority relied not only on the enquiry report but also on extraneous matters such as a separate FIR related to an alleged shortage of ₹16.50 lakhs and a notice from the Consumer Forum. According to the Workman, these matters had no connection with the charge itself.

Based on these premises, the Workman submits that the entire disciplinary proceedings, starting from the charge-sheet to the dismissal order and the appellate order, are illegal, void, and unsustainable in law. He asserts that the action of the Management is held to be vitiated by lack of jurisdiction, violation of principles of natural justice, non-application of mind, reliance on extraneous material, and disproportionality of punishment. He accordingly prays that the charge-sheet, enquiry report, dismissal order, and appellate order be dismissed, and he be reinstated in service with full back wages, continuity of service, and all consequential benefits.

In response, the Management filed its written statement stating that the action of dismissal taken against the Workman was entirely lawful, justified and in accordance with the relevant Bipartite Settlement and service regulations of the Bank. The Management asserts that the Workman was employed as a Single Window Operator "A" at the Sadoli Kadeem Branch, Saharanpur, and his duties were to accept deposits, issue receipts and proper accounting of transactions in the branch books. It is submitted that on 14.01.2011 the Workman was served with a charge-sheet for gross misconduct in terms of Clause 5(j) of the Bipartite Settlement dated 10.04.2002, which states that any act damaging the interest of the Bank or likely to cause loss to its reputation will be termed as misconduct. The charge-sheet states that on 04.11.2010 the Workman accepted a cash deposit of ₹3,00,000/- from one customer, Shri Vijender Singh, issued him a counterfoil acknowledging the deposit, but failed to account for the amount either in the Cashier's Long Book, the Bank's Cash Book or in the customer's account. The counterfoil issued by him bore the Bank's stamp but not the signature of the Branch Officer, which itself was a grave procedural violation. According to the Management, this conduct amounted to misappropriation of funds, dishonesty in connection with Bank's business and gross misconduct.

It is further the case of the Management that around the same period, the Workman was involved in a serious incident of shortage of cash at the branch and was arrested by the police on 29.11.2010. In view of his arrest and detention, he was immediately placed under suspension on 30.11.2010. An FIR No. 392/2011 under sections 420, 409, 467, 468, 471, 120B IPC was also registered against him in respect of the shortage of cash. Shri Vijender Singh lodged a complaint separately regarding non-deposit of the sum of ₹3,00,000/-, which complaint was taken on record during the enquiry as management exhibit ME-1. In continuation of his complaint, Shri Vijender Singh also gave a subsequent letter dated 18.01.2011, clarifying the circumstances in which he had deposited the money. These documents formed the foundation of the charge-sheet along with the relevant account statements.

The Management further contests the plea of the Workman that the charge-sheet was without jurisdiction or issued by an incompetent authority. It is submitted that under the then prevailing PAD Circular No.15 dated 10.01.2011, the Chief Manager, Circle Office, Muzaffarnagar, was duly authorised and competent to act as disciplinary authority in respect of award staff, including the category of the Workman. The objection raised on the basis of HRD Circular No. 86 dated 05.06.2002 is misconceived and untenable, since the said circular was modified and superseded by later instructions. Accordingly, the charge-sheet dated 14.01.2011 and the subsequent disciplinary action were fully valid and binding.

The Management further submits that a proper domestic enquiry was conducted strictly in accordance with the rules of natural justice and the procedure laid down in the Settlement. It is explained that the enquiry commenced on 24.01.2011, but due to the Workman being in judicial custody, the same was adjourned. On 25.01.2011, the Enquiry Officer, along with the Presenting Officer, visited District Jail, Saharanpur, and conducted the proceedings in the presence of the Workman. The management witnesses were examined in detail and were subjected to cross-examination by the Workman. The Workman was specifically asked to adduce any evidence in his defence, either oral or documentary, but he declined to avail of such opportunity. It is asserted that all documents relied upon by the Management were supplied to the Workman in advance, and he was given full opportunity to participate in the proceedings. The Presenting Officer filed his brief on 25.01.2011 and the Enquiry Officer submitted his report holding the charges as proved after carefully considering the material. The said report was duly furnished to the Workman, with an opportunity to respond. Thereafter, upon considering the entire record and the reply, the Disciplinary Authority passed the order dated 29.01.2011 dismissing the Workman from service under Clause 6(a) of the Settlement.

The Management denies that the enquiry was conducted in undue haste or with any predetermined mind. It is stated that since the Workman was about to reach the age of superannuation on 31.01.2011, it became imperative to conclude the proceedings expeditiously, otherwise the disciplinary process would have been rendered infructuous. The Management submits that expeditious conclusion of proceedings does not amount to violation of fairness, particularly when the Workman was present, heard, and given the chance to defend himself. The contention that the enquiry was conducted in English despite request for Hindi is also denied as the workman never raised any such grievance before the Enquiry Officer during the proceedings, and no prejudice can be claimed subsequently.

The Management contends that the evidence adduced during enquiry was cogent and sufficient to establish the misconduct. The account statement of Shri Vijender Singh clearly shows that no entry of ₹3,00,000/- was made on 04.11.2010, despite the counterfoil being issued by the workman. The said counterfoil was produced in the enquiry but it was not signed by any Branch Officer, which shows the irregularity. The contention that the receipt did not bear the Workman's signature is not valid as the workman was responsible for issuance of the same. The grievance of Shri

Vijender Singh was not fabricated and was supported by documentary evidence. The argument that the complainant was not examined in the enquiry is justified on the ground that the workman did not press for his summoning, and the documentary evidence already on record was sufficient.

The Management further submits that the Workman's dismissal cannot be said to have been influenced by extraneous matters. It is true that an FIR regarding shortage of ₹16.50 lakhs and a consumer forum notice were on record, but the decision of the Disciplinary Authority was based squarely on the charges proved in the domestic enquiry.

As far as departmental appeal is concerned, the management states that the Workman preferred the same only on 24.01.2013, almost two years after the dismissal order dated 29.01.2011. Despite such belated filing, the Appellate Authority entertained the appeal, gave a personal hearing to the workman, duly considered his written submissions, and thereafter rejected the appeal by order dated 13.03.2013, which was communicated to him on 02.04.2013. The allegation that the appeal was disposed of mechanically or without application of mind is strongly denied. The Management asserts that the Appellate Authority passed a speaking order after considering all relevant materials on record, and no mala fides can be attributed.

On the question of punishment, the Management submits that dismissal is the only appropriate penalty for the misconduct proved. The charges involved misappropriation of customer's funds, which goes to the root of the trust and confidence placed in a bank employee. Any leniency in such cases would undermine the discipline of the institution and the confidence of the public. The punishment imposed is neither excessive nor arbitrary but proportional to the seriousness of the misconduct.

Lastly, the Management submits that the enquiry was fair, proper and legal, the findings are supported by evidence and both the Disciplinary Authority and Appellate Authority exercised due application of mind. The Workman's allegations of procedural irregularities, mala fides or violation of natural justice are baseless and liable to be rejected. The Management prays that the present reference be answered against the Workman and in its favour, maintaining the dismissal order.

Rejoinder had been filed by the claimant where he denied the averment made by the Management in its written statement and affirmed the averments in his claim statement.

On completion of pleadings, the following issues were framed for adjudication:

1. Whether inquiry conducted against Sh. S.K. Oberai by management is just, proper, fair and legal? If so its effect?

2. Whether the action of management of Punjab National Bank through its Dy. General Manager PNB Bank, Muzaffarnagar, UP in dismissing the services of the disputant Sh. S.K. Oberai vide its order 29.01.2011 is fair and just? If so its effect?

3. To what relief the workman/claimant is entitled to and from what date?

Issue no.- 1 was treated as a preliminary issue. After considering the evidence and arguments of both parties, the domestic enquiry conducted against the workman was held to be vitiated by the Tribunal on 18.07.2019.

It is also important to mention here that after the preliminary issue was decided in his favor, the claimant moved an application seeking directions to the management for releasing provisional pension. That application was also allowed by this Tribunal vide order dated 24.03.2020, whereby the management was directed to release the provisional pension of the workman as admissible according to his last drawn salary from the date he would have superannuated had the order of dismissal not been passed against him. Subsequently, the management had challenged the said order before the Hon'ble High Court of Delhi in W.P. (C) no. 12198 of 2021. The Hon'ble High Court vide its order dated 28.10.2021, directed that the management shall pay a sum of Rs. 200,000/- to the claimant within four weeks subject to the condition that the claimant shall file an undertaking to the effect that he will abide by the orders of this Tribunal for adjustment/refund of the said amount. The said amount was subsequently received by the claimant.

To prove the charges on merits, the management examined MW-2 Sh. Daljeet Singh Kalra, who deposed that he had appeared as a witness in the departmental enquiry conducted against the workman.

According to MW-2, the workman was served with a charge-sheet dated 14.01.2011 alleging that on 04.11.2010 he accepted a cash deposit of Rs.3,00,000/- from customer Sh. Vijender Singh in Savings Account No. 3118000100175133 and issued a stamped counterfoil receipt acknowledging receipt of the cash. However, the amount was neither entered in the Cashier's Long Book nor in the Branch Cash Book, and was not credited to the customer's account. It was further stated that the workman gave the cash receipt to the customer, Sh. Vijender Singh without first getting it signed by the authorized bank officer, which was against the interests of the Bank.

MW-2 further deposed that Sh. Vijender Singh submitted a complaint dated 30.11.2010 stating that he had deposited Rs.3,00,000/- in the Branch on 04.11.2010. However, when he checked his account later, he noticed that no such credit entry had been recorded.

The witness identified the signatures of the workman on the counterfoil receipt dated 04.11.2010. He stated that during the course of his service he had seen various vouchers and documents signed by the workman and was familiar with his signatures. According to him, the signatures appearing on the counterfoil receipt matched the signatures of the workman.

MW-2 further stated that neither the Cashier's Long Book dated 04.11.2010 nor the Branch Cash Book contained any entry of deposit of Rs.3,00,000/-. Also, the statement of account of Sh. Vijender Singh for the relevant period did not reflect any credit of the said amount.

The witness deposed that although the workman had received Rs.3,00,000/- from the customer, the amount did not reflect in the records of the Bank and no entry was found except the counterfoil receipt allegedly signed by the workman. According to the management, this amounted to misappropriation of the customer's money by the workman.

MW-2 also stated that the management was unable to produce the complainant/customer, Sh. Vijender Singh, as a witness because he had expired. He further stated that a criminal case arising out of the same incident had been registered against the workman and was pending before the criminal court.

MW-2 further deposed that the customer had also initiated proceedings before the Consumer Forum. According to him, the complaint was allowed in favour of the customer and the appeal preferred by the Bank before the State Consumer Disputes Redressal Commission was dismissed on 17.08.2017. He stated that the State Commission observed that the workman, being the cashier, had accepted Rs.3,00,000/- from the customer and had issued the receipt acknowledging the deposit. He further deposed that the Bank ultimately paid the amount of Rs.3,00,000/- along with interest to the customer in compliance with the consumer forum proceedings.

Lastly, MW-2 stated that conduct of the workman amounted to misconduct including breach of trust and confidence expected from a bank employee who handles public money.

The witness relied upon the following documents:

1. Complaint dated 30.11.2010 made by Sh. Vijender Singh regarding non-credit of Rs. 3,00,000/- in his account. (Ex. MW2/1)
2. Counterfoil receipt dated 04.11.2010 for Rs. 3,00,000/- allegedly issued in favour of Sh. Vijender Singh. (Ex. MW2/2)
3. Copy of the Cashier's Long Book dated 04.11.2010. (Ex. MW2/3)
4. Copy of the Cash Book of Branch Sadholi Kadeem dated 04.11.2010. (Ex. MW2/4)
5. Statement of account of Sh. Vijender Singh bearing Account No. 3118000100175133 for the period from 01.04.2010 to 31.12.2010. (Ex. MW2/5)
6. Complaint dated 18.01.2011 submitted by Sh. Vijender Singh reiterating his earlier grievance. (Ex. MW2/6)
7. Copy of the order dated 17.08.2017 passed by the State Consumer Disputes Redressal Commission, Uttar Pradesh. (Ex. MW2/7)

During cross-examination, MW-2 Sh. Daljeet Singh Kalra admitted that although he had worked in the concerned branch during the period 2010 to 2012, the claimant had never worked under his supervision. Thus, he had no direct supervisory role over the claimant and could not state anything regarding the claimant's day-to-day functioning from personal knowledge.

The witness said he recognized the signatures on Ex. MW2/2 by comparing them with the claimant's signatures kept in the Bank's records. But during his testimony, he admitted he couldn't actually show any of those genuine signatures because the Bank had the records. So, no original signature was presented to the Tribunal to check whether the disputed signature actually matched.

MW-2 also admitted that he himself had acted as the Presenting Officer in the domestic enquiry conducted against the claimant. The witness further admitted that Ex. MW2/2 (Counter-foil issued to the customer Sh. Vijender Singh), which is foundation of the management's case, does not contain the serial number of the voucher allegedly relating to the deposit. Although the witness stated that the claimant intentionally not mentioned the serial number, but he gave no proof for this. It was also admitted by MW-2 that the enquiry proceedings were finished in just two days, and at that time, the claimant was in jail. The detail is important when considering whether the claimant was really given a fair chance to defend himself during the disciplinary proceedings.

The witness further admitted that Ex. MW2/2 is merely the counterfoil issued to the customer and that it does not contain details regarding the denomination of the currency notes allegedly deposited. Thus, the document itself does not provide complete particulars of the alleged cash transaction.

In rebuttal, the claimant examined WW-2 Sh. Budh Prakash Kundu, a former colleague of the claimant. The witness deposed that he had joined New Bank of India on 17.10.1973 and had worked with the claimant for a long period, namely from 1975 to 1993 and again from 1996 to 2009, in the same bank and at the same branches.

WW-2 stated that while working with the claimant, he found him to be cooperative, sincere and honest in doing his job and in dealing with both colleagues and customers. He further stated that during the years they worked together, he never saw or heard of any complaint or allegation against the claimant. He further stated that he had known the claimant and his family since 1975 and knew them as honest and respectable persons.

During cross-examination, WW-2 admitted that he knew that an FIR bearing No. 392/2011 had been registered against the claimant at Police Station Behat, District Saharanpur. However, he stated that he did not know what the allegations were, nor did he have any knowledge regarding the progress or outcome of the criminal proceedings. He only knew that the claimant had spent some time in judicial custody in connection to the said FIR.

Whole of the arguments of the claimant is centred around the fact that the management has failed to prove the misconduct on the part of the claimant. Therefore, the dismissal order dated 29.01.2011 is liable to be set aside. The domestic enquiry had already been vitiated by this Tribunal on account of violation of principles of natural justice and denial of opportunity of hearing to the claimant. The claimant drew the attention of this Tribunal towards the testimony of MW-2 Sh. Daljeet Singh Kalra, who admitted that the claimant had never worked under his supervision. Further, he was unable to produce any admitted signature of the claimant for comparison with the disputed signature appearing on Ex. MW2/2 (counterfoil issued to the customer Sh. Vijender Singh), though he had stated that the signature on the said document was similar to the admitted signatures of the claimant. Further, he submitted that even assuming for the sake of arguments that the signature appearing on Ex. MW2/2 belonged to the claimant, even then it does not appear to be his signature if compared with the admitted signatures of the claimant appearing on the claim statement as well as the enquiry proceedings, which was signed by the claimant in presence of the enquiry officer and the presenting officer. It was further stated by the claimant that the witness Sh. Vijender Singh, the complainant, was not produced before the Tribunal and the management's case rested only on assumptions and disputed documents. He submitted that as the management failed to prove the misconduct, the dismissal order be set aside and he be granted all consequential benefits to which he is entitled.

On the other hand, the case of the management rests on the premise while the claimant while working with the management had not deposited the amount taken from one Sh. Vijender Singh of Rs. 3,00,000/- in the Long Book as well as the customer account, while he had issued counterfoil for the same. For this, the management relied upon the relevant documents, including the customer's complaints, the counterfoil receipt, the Cashier's Long Book, the Cash Book, the statement of account of the customer, and the orders passed in the consumer proceedings. The management further argued that the claimant failed to lead any effective evidence on the contrary, and he examined Sh. Budh Prakash Kundu who only deposed regarding the character and reputation of the claimant and didn't depose anything regarding the charge-sheet. The management also submitted that criminal proceedings arising out of the same incident are pending against the claimant. According to the management, the charges regarding misappropriation of a customer's money establishes a grave act of misconduct involving breach of trust which invites the penalty of dismissal imposed upon the claimant.

I have heard the arguments at bar and perused the record. It is important to mention here that dduring the pendency of the present reference, the claimant was acquitted by the Court of the learned ACJM-II, Saharanpur in Criminal Case arising out of FIR No. 392/2011, P.S. Behat, Saharanpur. The said judgment was placed on record. A perusal of the judgment reveals that despite sufficient opportunities, the prosecution failed to examine even a single witness. Consequently, the prosecution evidence was closed and the Court held that in the absence of any oral evidence, the documentary material on record had no evidentiary value.

Further, a perusal of the order dated 17.08.2017 passed by the State Consumer Disputes Redressal Commission, Uttar Pradesh (Ex. MW2/7) reveals that the defense taken by the management therein was substantially different from the stand taken before this Tribunal. Before the State Consumer Commission, the management had specifically pleaded that no amount of Rs.3,00,000/- was ever deposited by the customer, Sh. Vijender Singh, on 04.11.2010 and that the receipt had been procured through a conspiracy between the customer and others to cause loss to the Bank. On the other hand, before this Tribunal, the management's case is that the claimant accepted Rs.3,00,000/- from Sh. Vijender Singh, issued the counterfoil receipt (Ex. MW2/2), but didn't account for the amount in the Bank records and misappropriated the same. These two stands are totally different from each other and don't match. If the stand of management before the consumer commission is accepted that no deposit of Rs.3,00,000/- was made by the customer Sh. Vijender Singh, then no question arises of any embezzlement or misappropriation which would invite the penalty of dismissal.

Moreover, in the present case, Ex. MW2/2, the counterfoil receipt dated 04.11.2010 for Rs. 3,00,000/- allegedly issued by the claimant in favour of Sh. Vijender Singh, has not been established. From the bare perusal of signature appearing on Ex. MW2/2 and its comparison with the admitted signatures of the claimant appearing on the claim statement as well as the inquiry proceedings, both appear to be substantially different. Moreover, no admitted

signature was produced by the management for comparison despite the specific stand taken by MW-2 that the disputed signature matched the admitted signatures of the claimant available in the Bank records. Consequently, the management has failed to establish that the counterfoil receipt (Ex. MW2/2) bore signature of the claimant.

In view of the discussion above, the management has failed to prove any misconduct on part of the claimant. Therefore, the termination of the claimant vide order dated 29.01.2011 is held to be illegal and unjustified. Hence, issue no. 2 is decided in favour of the claimant and against the management.

Relief

Since the claimant reached the age of superannuation on 31.01.2011, reinstatement cannot be granted to him. However, he is entitled to receive all retiral benefits along with other consequential benefits plus a compensation of Rs. 3,00,000/- (Rupees Three Lakhs only) for his illegal termination which cause him harassment for long. The management is directed to release the same within two months from the date of notification of this award, failing which the amount shall carry an interest at the rate of 8 % per annum till realization. Award is passed accordingly. A copy of this award be sent to the appropriate government for notification under section 17 of the Industrial Disputes Act, 1947. The file is consigned to record room.

Date: 16.06.2026 ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 2000.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चमेरा पावर स्टेशन-III, एनएचपीसी लिमिटेड धरवाला** के प्रबंधतंत्र के संबद्ध नियोजकों और **स्वर्गीय श्री. दलीप सिंह, श्रीमती. चंचल देवी पत्नी स्वर्गीय स्व. दलीप सिंह, श्री. कार्तिक पुत्र स्व. दलीप सिंह, श्री. अरुण पुत्र स्व. दलीप सिंह** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद, **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 133/2024)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.08.2026 को प्राप्त हुआ था।

[सं. – एल-42025/07/2026/96-आईआर(डीयू)]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 2000.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 133/2024)** 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 **Chamera Power Station-III, N HPC Ltd. Dharwala** and **Late Sh. Daleep Singh, Smt. Chanchal Devi W/o Late Sh. Daleep Singh, Sh. Kartik S/o Late Sh. Daleep Singh, Sh. Arun S/o Late Sh. Daleep Singh** which was received along with soft copy of the award by the Central Government on 31.08.2026.

[No- L-42025/07/2026/96-(IR(DU)]

SALONI, Deputy Director

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh

(Present:- Mr. Kamal Kant, Presiding Officer).

ID No.133/2024

1. Late Sh. Daleep Singh, Beldar Special, Employee No.183912-L, Chamera Power Station-III, NHPC Ltd. Dharwala, District Chamba (HP), R/o Village Daryali, PO Sarol, Tehsil and District Chamba (HP) through its LRs:-

1A. Smt. Chanchal Devi W/o Late Sh. Daleep Singh, Beldar Special, Employee No.183912-L, Chamera Power Station-III, NHPC Ltd. Dharwala, District Chamba (HP), R/o Village Daryali, PO Sarol, Tehsil and District Chamba (HP)

1B. Sh. Kartik S/o Late Sh. Daleep Singh, Beldar Special, Employee No.183912-L, Chamera Power Station-III, NHPC Ltd. Dharwala, District Chamba (HP), R/o Village Daryali, PO Sarol, Tehsil and District Chamba (HP).

1C. Sh. Arun S/o Late Sh. Daleep Singh, Beldar Special, Employee No.183912-L, Chamera Power Station-III, NHPC Ltd. Dharwala, District Chamba (HP), R/o Village Daryali, PO Sarol, Tehsil and District Chamba (HP)

-------- Applicants

Versus

The General Manager, Chamera Power Station-III, NHPC Ltd. Dharwala, District Chamba (HP)----Management

Present:- Sh. T R Bhardwaj, AR for applicants.

Sh. Tarun Gupta, AR for Management.

AWARD : 25.11.2025

1. Sh. Daleep Singh (hereinafter called as workman) has directly filed the claim statement against the management under sub-section (2) and (3) of Section 2A of the Industrial Disputes Act, 1947 (hereinafter called as the Act) claiming quashing of termination order dated 09.05.2014 (Ex.W2) and his reinstatement in service w.e.f. 16.06.2010 along with full back wages and all consequential benefits.

2. It is added here during the present proceedings, workman Sh. Daleep Singh had expired on 09.01.2021 and his legal heirs were allowed to be impleaded as party vide order dated 22.11.2022.

3. It is maintained in the claim statement that workman was appointed as Beldar in Salal H.E. Project and joined the service on 02.09.1984 and thereafter remained posted in Chamera Power Station-l, Khairi, Chamera Power Station-II, Karian and since year 2005, he was working under Chamera Power Station III, Dharwala.

4. Management of Chamera Power Station-III has illegally terminated the services of workman by way of struck off his name from the roll of NHPC w.e.f. 16.06.2010 vide order dated 09.05.2014 (Ex.W2) on the ground that he is deemed to have left the service of the company of his own accord w.e.f. 16.06.2010 in terms of Rule 3.2.17 of NHPC Leaves Rules. The termination order dated 09.05.2014 (Ex.W2), was received in his home on 19.06.2014.

5. Against the illegal termination, workman filed Industrial Dispute in the office of Assistant Labour Commissioner (Central)-Cum-Conciliation Officer, Chandigarh (hereinafter called as ALC, Chandigarh) vide Demand Notice Dated 16.09.2014 (Ex.W3) on which conciliation proceedings were held but no settlement could be arrived at and mandatory period of 45 days of filing the dispute before conciliation officer as provided under Section 2A(2) of the Act has been completed on 16.11.2014 and certificate to this effect has been issued by the ALC Chandigarh on 16.12.2014.

6. It is also maintained that absence of workman from duty is not intentional but was under compelling circumstances which was beyond the control of workman as he was suffering with Schizophrenia disease since long time and was getting medical treatment from Rajpal Hospital Neuro-Psychiatric and Addiction Hospital, Pathankot from 15.06.2010 to 13.05.2014, which is evident from medical certificate dated 13.05.2014 (Ex.W4) issued by the Treating Doctor Kanwar Rajpal Singh Neuro Psychiatrist.

7. Prior to 15.06.2010, he was getting treatment of same disease from the said Doctor from the year 2008 and onward. On 15.06.2010 when he was on duty, he felt seriously ill and then family Members shifted him to Pathankot for seeking medical treatment and he remained under prolonged medical treatment till 13.05.2014.

8. In the second/third week of April 2014, there was some slight improvement in his health, then he along-with his wife went to HR wing of Chamera Power Station-III and approached to the then Senior Manager (HR) to accept his joining report but the senior manager (HR) told him that the management is not in a position to accept his joining report as matter has been referred to Corporate Office and senior manager (HR) advised him and his wife to sent his representation to the Director (Personnel) and if he so desired to meet him in person in this regard. Accordingly the workman made one representation (Annexure P-5) to the Director (Personnel) and the copy of the same was endorsed to the Executive Director (HR) NHPC Ltd. which was sent through Fax by HR Wing of the Power Station and on 22.04.2014 and 06.05.2014, the workman along with his wife and General Secretary of NHPC employees Union, Corporate Office met with General Manager (HR) and Director (Personnel) separately at Faridabad office and explained each about his genuine illness/disease and handed over a copy of aforesaid representation to them and also requested them to allow him to resume his duties but there no effect. He was simply told to go to the local project management and approach him for joining at his own level.

9. On 14.05.2014 (Ex.W6), the workman submitted his joining report to the Sr. Manager (HR), Chamera Power Station-III along with a copy of medical certificate dated 13.05.2014 (Ex.W4) but he returned the same to the workman and told that since the department has issued termination order from service on 09.05.2014 as such his joining report cannot be accepted.

10. The workman also sent various telegrams (Ex.W7) dated 08.06.2010, 20.10.2010, 15.02.2011, 06.05.2011, 01.09.2011, 21.10.2011, 29.12.2011, 23.03.2012, 21.05-2012, 12.07.2012 and thereafter his wife gave information to the then Sr. Manager (HR) on telephone every month about his ill health.

11. Before passing termination order, management was to serve charge sheet upon the workman and hold inquiry but in the present case neither management served any charge sheet nor held any enquiry. No opportunity of personal hearing was afforded to the workman before passing termination order dated 09.05.2014 (Ex.W2).

12. There is a settled law that illegal termination of service amount to retrenchment and management have to comply with the provisions of Section 25-F of the Act but in the present case Management has not issued one month notice in writing nor paid one month wages in lieu of notice period and has also not been paid any retrenchment compensation to the workman.

13. Management has not been adhered the procedure laid down in Clause 34 of Certified Standing Orders before passing final order of termination of services. Because the services of the workman is governed by Certified Standing Orders of the Chamera Power Station-III/Chamera H.E, Project Stage-III, as Such the action of management in terminating his services is illegal and clear cut violation of Certified Standing Orders and instructions issued by the Corporate office vide letter dated 21.09.1993 (Ex.W12).

14. The action of management in striking of the name of the workman from the role of the corporation w.e.f. 16.06.2010 vide order dated 09.05.2014 (Ex.W2) on the ground of unauthorized absence from duty is also arbitrary and unjustified. The workman is unemployed and nowhere gainfully employed since the date of his termination and having no other source of income. The workman made a representation dated 09.07.2014 (Ex.W8) to the management with the request to review order dated 09.05.2014 (Ex.W2), but the same was rejected by the Manager (M), Incharge HR by way of passing non speaking order dated 12.08.2014 (Ex.W9). It is maintained that the action of management in terminating the service is illegal and against the principle of natural justice and it is prayed that the termination order dated 09.05.2014 (Ex.W2) be quashed and workman be reinstated in service w.e.f. 16.06.2010 along with full back wages and all consequential benefits.

15. Notice of the claim petition was given to the management, who filed reply thereof maintaining therein that the workman is a habitual absentee and has remained absent from duties unauthorizedly as specified in the notice. He was absent from the duty continuously w.e.f. 16.06.2010. The workman did not respond to any of the notices issued from time to time and explain the circumstances with proof about the absence nor he cared to join duty. For this long period of absence his name was struck off from the rolls of the corporation as he was deemed to have left the services of the company on his own accord. As such strucking off name of the workman from the roll is not termination as alleged by him, therefore, it is not an industrial dispute. The workman did not resume his duties, which is the prime responsibility of the bonafied employees of the corporation.

16. The workman was advised time and again by the management to submit his prescriptions of treatment so that the period of absence without permission may be considered for regularization within rules. In this connection, various correspondences were made with the workman vide various letters dated 25.06.2011 (Ex.M-3), 21.09.2011 (Ex.M-1) and 31.12.2011 (Ex.M-2) to submit the documentary proof. These letters addressed to the workman were returned back with remarks that no one was available at home of the workman to receive the letter. The workman kept on sending telegrams that he is not well and he will resume duties after fitness. Since the communications sent to the workman at his last known address were received bank unserved, the management gave public notice through publication in two regional newspapers both Hindi and English on 11.07.2012 (Ex.M-4) with the direction to resume duty within 07 days of publication notice i.e. by 18.07.2012 but the workman failed to resume duty. Thereafter, again public notice in local and national newspapers, both in Hindi and English were published on 01.02.2014 and also on 07.04.2014 (Ex.M-5) directing him to report for duty by 22.04.2014, failing which he shall be deemed to have left the services of the management on his own accord and his name will be struck off from the roll of NHPC from the date of his absence in accordance with Rule 3.2.17 of NHPC Leave Rules. Despite several efforts made by the management, the workman failed to respond to the either of the publications.

17. The workman submitted a medical certificate issued on 13.05.2014 (Ex.W4) by the doctor namely Dr. Kanwar Rajpal Singh, Neuro Psychiatric, Pathankot without any supporting documents like prescription etc. after the long span of 4 years of absence, which shows it is totally fabricated documentary evidence with ulterior motive. Mere certificate is not sufficient to prove that he was suffering from prolonged illness of Schizophrenia disease as workman has not submitted any prescription/documents regarding treatment since 2010 to 2014 for the reasons best known to the workman. In absence of any documents, it is impossible to presume that the workman is suffering from any illness or undergoing treatment. Non submission of documentary proof by the workman is violation of Rules and the Certified Standing Orders of Chamera-III Power Station. It is admitted that Standing Orders, which have been certified under the Industrial

Employment (Standing Orders) Act, 1946 become part of the statutory terms and conditions of service between the employer and employee govern the relationship between the parties. But there is no provision either in this statute or in the Act which states that an order of dismissal is illegal if it is not preceded by a proper and valid domestic enquiry. The workman has fabricated the story, which is not sustainable in the eyes of law. It is maintained that the claim of the workman is baseless, without any merit and deserves to be dismissed with cost.

Evidence of parties:-

18. In order to prove claim, the workman examined himself as WW1 who filed his affidavit Ex.W1 along with documents W2 to W17 and cross examined by the AR for management. AR for claimant closed the evidence on behalf of claimant on 16.08.2018. Workman in his evidence has relied upon the following documents:-

Sr. No.	Document	Date	Exhibit
1.	Termination order	09.05.2014	Ex.W2
2.	Demand notice	16.09.2014	Ex.W3
3.	Medical certificate	13.05.2014	Ex.W4
4.	Letter		Ex.W5
5.	Letter	14.05.2014	Ex.W6
6.	Telegrams receipts		Ex.W7
7.	Representation	09.07.2014	Ex.W8
8.	Order	12.08.2014	Ex.W9
9.	Publication	20.03.2014	Ex.W10
10.	Certified standing order		Ex.W11
11.	Letter	21.09.1993	Ex.W12
12.	Medical certificate	05.04.2008	Ex.W13
13.	Medical certificate	05.04.2008	Ex.W14
14.	Medical certificate	15.07.2009	Ex.W15
15.	Medical certificate	22.11.2009	Ex.W16
16.	Medical certificate	26.01.2010	Ex.W17

19. Thereafter, respondents have examined Sh. Sunil Kumar Singh, Group Sr. Manager (HR), Emp No.102497Y, Chamera-III Power Station, Dharwala, Distt. Chamba (HP), who filed his affidavit as Ex.MW1/A along with documents Ex.M-1 to Ex.M-8 and MW1/B and MW1/C. AR for respondent closed the evidence on behalf of management on 19.06.2023. Respondents in their evidence has relied upon the following documents:-

Sr. No.	Document	Date	Exhibit
1.	Letter	21.09.2011	Ex.M-1
2.	Letter	31.12.2011	Ex.M-2
3.	Memorandum	25.06.2011	Ex.M-3
4.	Publication	11.07.2012	Ex.M-4
5.	Notice	31.01.2014	Ex.M-5
6.	Publication		Ex.M-6
7.	Leave Rules		Ex.M-7
8.	Notice	09.05.2014	Ex.M-8
9.	Group Personal Accident Insurance Scheme		Ex.MW1/B

10.	NHPC Employees Social Security Scheme Rules 2006		Ex.MW1/C

Submissions of Applicants:-

20. While arguing the case, AR for workman contended that the workman has joined as Beldar in Salal Hydro Electric Project under the respondent and lastly was working under respondent no.1 at Chamera and was removed from service illegally on vide order dated 09.05.2014 (Ex.W2). It is further stated that workman was getting treatment of Schizophrenia from Dr. Rajpal from 15.06.2010 till 13.05.2014 as OPD patient as per medical certificate dated 13.05.2014 (Ex.W4) issued by the said doctor. It is also stated that the workman has sent various telegrams 08.06.2010, 20.10.2010, 15.02.2011, 06.05.2011, 01.09.2011, 21.10.2011, 29.12.2011, 23.03.2012, 21.05-2012, 12.07.2012, receipts thereof are Ex.W/7 to the respondent. The workman was under acute mental depression as such he cannot be said to be remained unauthorized absent. Therefore, respondent without holding any inquiry, terminated the services of the workman vide order dated 09.05.2014 (Ex.W2). He further contended that workman is governed by the certified standing orders (Ex.W11). As per clause 32 provides minor and major penalty, which could have been intricate on the workman after holding domestic inquiry as per law. Clause 34 of the said standing order provides procedure how disciplinary action is to be taken against the workman the detailed procedure has been prescribed under Clause 34. As per said clause 34, no minor or major penalty can be imposed without holding any regular inquiry. For that, regular inquiry is necessitated, which was not done in this. Moreover, as per Ex.W12 issued by the project head, even if workman remains absent, he could not have been removed from service without holding inquiry and thus order is liable to be set aside.

Submissions of respondents:

21. On the other hand, AR for respondent contended that workman become absent unauthorizedly and continuously w.e.f. 16.06.2010. The workman was asked to submit documentary proof vide Ex.M-1 dated 21.09.2011, Ex.M-2 dated 31.12.2011 and Ex.M-3 dated 25.06.2011 and thereafter public notice was also given to the workman vide Ex.M-4 dated 11.07.2012 and Ex.M-5 dated 31.01.2014 through publication in newspaper and thereafter his name was struck off as per Para 3.2.17 of Leave Rule (Ex.M7), which provides as follows:-

> *3.2.17. If an employee willfully absents himself from duty for more than ten consecutive days without any intimation, a notice shall be issued to him, directing him to report for duty forthwith and in any case not beyond eight days after the issue of the notice. If he does not resume duty within such period the employee shall be deemed to have left the service of the Corporation of his own accord and his name shall be struck off the rolls of the Corporation with effect from the date of such absence.*

22. The workman was untraceable during this period and was thus accordingly removed from service as per Rules. He thus contended that the claim petition be dismissed.

23. I have given due consideration to the arguments advanced by AR for both the parties.

24. It is added here that in this case, admittedly, workman had remained absent for the period 15.06.2010 to 13.05.2014 and as per workman, he sent various telegrams (Ex.W7) (10 in number) to the respondent. However, as per respondents, workman was asked to submit documentary proof vide Ex.M-1 dated 21.09.2011, Ex.M-2 dated 31.12.2011 and Ex.M-3 dated 25.06.2011 and thereafter public notice was also given to the workman vide Ex.M-4 dated 11.07.2012 and Ex.M-5 dated 31.01.2014 through publication in newspaper and therefore his name was struck off as per Para 3.2.17 of Leave Rule (Ex.M7). In this regard, it is pertinent to mention here that so far as sending of letters Ex.M-1 dated 21.09.2011, Ex.M-2 dated 31.12.2011 and Ex.M-3 dated 25.06.2011 are concerned, they have admittedly been received back by respondent as undelivered and admittedly all the telegrams have been received by the respondent and thus respondent was required to sent notices on the addresses from which various telegrams were received, which was admittedly not done by the respondent. The respondents have sent the notices on the last known address of the workman. Thus, in this way notice cannot of any help of the respondents.

25. Moreover, it is not disputed that workman was governed by certified standing orders and in this case, name of the workman has been struck of from the role NHPC vide notice dated 09.05.2014 (Ex.W2) without holding any regular inquiry. In this regard, clause 34 of standing orders is very material and relevant part of standing orders is reproduced as under:-

> *34. Disciplinary Action:-*
>
> *No order imposing any of the penalties specified under S.O. No.32 shall be made unless the procedure detailed below is adhered to:-*

1) The workman/employee alleged to have committed the misconduct shall be served a chargesheet, clearly setting for the imputation of misconduct and circumstances appearing against him and requiring explanation. The charge sheet shall be issued by appointing authority or disciplinary authority or any other higher authority as authorized by the management.

2) --- -- -- --- ---

3) --- -- -- --- ---

4) Management Shall appoint a person (called presenting officer) to appear before the Enquiry Officer and conduct the proceedings on behalf of the management, for presenting evidence, record, witness, examination of witnesses.

5) --- -- -- --- ---

6) --- -- -- --- ---

7) --- -- -- --- ---

13) the inquiry officer shall on conclusion of the enquiry, submit his report in writing giving his findings with reasons thereof to the authority which appointed the inquiry officer and a copy of the proceedings is to be supplied to the concerned workman.

14) --- -- -- --- ---

15) --- -- -- --- ---

26. It is added here that removal from service was a major penalty as per clause 32 of the certified standing orders and name of the workman has been struck of without holding any regular inquiry as per clause 34 of the certified standing orders and thus order dated 09.05.2014 (Ex.W2) is liable to be set aside.

27. So far as struck of the name of the workman as per para 3.2.17 of Leave Rules Ex.M7 is concerned, in this regard, letter (Ex.W12) was issued by the respondent. In para no.3 of the W12, it is mentioned by the respondent that in view of various judgments of the Hon'ble Supreme Court, the certified standing orders have statutory force and principle of natural justice should be followed in every case while acting on these certified standing orders. Moreover, AR for respondents made following statement:-

Stated that the NHPC Leave Rules are made by the Board of Directors in accordance with standing orders. They are not statutory in nature.

28. Thus Leave Rule, 3.2.17 having no force of law and cannot be relied upon and thus workman is liable to be reinstated into services when no domestic inquiry was held. Moreover, there was no compliance of the provisions of the Act prior to termination of services of the workman.

29. In view of the discussions, absence of workman from 15.06.2010 to 13.05.2014 would be treated as leave of kind dues and the order dated 09.05.2014 is set aside. The workman is entitled to reinstatement in service with all consequential benefits. Since, the workman has expired on 09.01.2021, his legal heirs would be entitled for all benefits.

30. 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, 31 अगस्त, 2026

का.आ. 2001.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा एच एस बी सी ओरिएंटल बैंक ऑफ़ कॉमर्स के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली –*II*** के पंचाट (125/2021) प्रकाशित करती है।

[सं. एल – 12025/01/2026- आई आर (बी-I)-212]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 2001.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.125/2021*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi –II* as shown in the Annexure, in the industrial dispute between the management of Canara HSBC Orintal Bank of Commerce and their workmen.

[No. L-12025/01/2026- IR(B-I)-212]

SALONI, Deputy Director

BEFORE SH. ATUL KUMAR GARG, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 125/2021

Sh. Surya Pratap Singh, S/o Sh. Suresh Singh,

C/o Sh. Harish Kumar, 616, Hari Enclave.

Village- Alipur, Delhi-110036.

Versus

1. **The Manager,**

   Canara HSBC Oriental Bank of Commerce,

   Life Insurance Co. Ltd. 208, 2nd Floor, Kanchan Jhangha Builiding,

   Barakhamba Road, New Delhi-110001.

2. **The Sr. Manager,**

   Canara HSBC Oriental Bank of Commerce,

   Life Insurance Co. Ltd. 2nd Floor, Orchid Business Park,

   Sector-48, Sohna Road, Gurgaon-122018.

AWARD

Dated-22.04.2026

This is an application **under section 2A of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act")** filed by the claimant. Claimant in his claim statement stated that he was appointed as Relationship Officer in the management on 04.09.2017 at the annual salary of Rs. 2,75,000/- (Rs. 22,916.66/- per month). He was performing his duty sincerely since the first date of joining and had complied all the terms and conditions honestly and record of the workman was well satisfactory and he did not give any chance of complaint to the managements, but for retrenchment of the management company and tried to level the false allegations on the performance of duties in deficit manner. Despite the sincere efforts, he has been terminated on 28.06.2018. He had sent the legal notice dated 23.01.2019 and the same was duly served by the management. Management has sent a reply against the notice of the workman, which is under the parameter of the instruction of company and beyond the justification of the claim of the workman. Hence, he filed the present claim with the prayer that he be reinstated in services with full back wages.

W.S. has been filed by the Management. He had denied the averment made in the claim statement and submitted that claim is liable to be dismissed.

From the pleadings of the parties, vide order dated 31.08.2022, following issues have been framed-

1. If the proceeding is maintainable.
2. Whether the claimant is a workman as per the definition of section 2(S) of the ID Act.
3. Whether there exist employer and employee relationship between management and the claimant.
4. Whether the service of the workman was illegally terminated by the management.
5. To what relief the claimant is entitled to.

Now, the matter is listed for consideration of the claimant's application seeking amendment in the claim statement. However, the claimant has not been appearing for the last several dates. It appears that he is not interested in pursuing his claim.

In these circumstances, when the claimant is not interested in perusing 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.

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 2002.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दी ओरिएंटल बैंक ऑफ़ कॉमर्स के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली –*II*** के पंचाट (253/2019) प्रकाशित करती है।

[स. एल – 39025/01/2026- आई आर (बी-I)-106]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 2002.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.253/2019*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi –II* as shown in the Annexure, in the industrial dispute between the management of The Oriental Bank of Commerce and their workmen.

[No. L-39025/01/2026- IR(B-I)-106]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No. 253/2019

Sh. Rajender Kumar vs. Oriental Bank of Commerce

Sh. Rajinder Kumar (Sh. Rajender Singh)
S/o. Sh. Bhola Ram
R/o RZ-13K, G/F, J-Block,
Gali no. 62, West Sagarpur,
South West Delhi-110046.
Also at
RZD-3/29, 1st Floor, Vashist Park
South West
New Delhi-110046.

…Applicant/Claimant

Versus

Through its Chief Manager/
Concerned official
The Oriental Bank of Commerce
Branch at 26-B, choti mandi,
Janakpuri, New Delhi-110058.
Oriental Bank of Commerce
HRD Department, Head Office
Plot no. 5, Institutional Area,
Sector-32, Gurugram-122001.

…Managements/respondents

AWARD

21.05.2026

Only issue in the present case that requires adjudication is whether the respondent bank has been able to prove the misconduct of the claimant. Before parting the decision, the brief facts of the present case is required to be reproduced herein. On 20.11.2019, a reference was sent to this Tribunal, by the Deputy Chief Labour Commissioner (C), New Delhi in the following words:

"Whether the action of the management of Oriental Bank of Commerce in terminating the services of the workman Sh. Rajender w.e.f. 31.05.2007 is just, fair and legal? If not, what relief the workman concerned is entitled to and from which date?"

At the relevant time, the claimant was working with the respondent w.e.f. 11.09.1985 on the post of Clerk-cum-Cashier as a permanent employee and was drawing last salary of Rs. 13,859.70/- per month. Certain financial misappropriation took place in the respondent bank on 05.06.2004, 08.06.2004, 15.06.2004 and 19.06.2004, wherein customers of the bank had deposited amounts worth Rs. 1,50,000/- and were issued counterfoils thereof by the claimant herein, but the said amounts did not reflect in their respective bank accounts. Accordingly, complaints were lodged and an enquiry was set up by the bank, wherein the claimant was found guilty of the offence of embezzlement vide order dated 31.05.2007. The disciplinary authority also affirmed the punishment of dismissal from service.

In between, an FIR was lodged in July, 2004 under section 409 IPC in the PS- Hari Nagar, New Delhi IPC, which culminated in charge-sheet and a trial took place where the Ld. Metropolitan Magistrate vide order dated 23.11.2015 held the claimant guilty under section 409 IPC and sentenced him to simple imprisonment for a period of three years with a fine of Rs. 5,000/-. In an appeal filed by the claimant before the session court challenging the impugned order of the Ld. Metropolitan Magistrate, the claimant was acquitted of the charges framed under section 409 IPC vide judgment dated 19.05.2016. Subsequently, he preferred an appeal as provided under the banking regulations, which was dismissed by the appellate authority in 2016. Thereafter, the claimant took recourse before the conciliation officer where the dispute resulted in the present reference.

After completion of pleadings, the following issues had been framed:

1. Whether the proceeding is maintainable.
2. Whether the action of the management of Oriental Bank of Commerce in terminating the services of the claimant is legal and justified.
3. Whether the domestic enquiry was concluded against the claimant properly following the principles of Natural Justice.
4. To what relief the claimant is entitled to.

Issue no. 3 was treated as the Preliminary Issue. The domestic enquiry was held to be vitiated for want of compliance of principles of Natural Justice. Now, issue no. 1, 2 and 4 remain to be decided.

The management, in order to prove the misconduct, produced its witness Sh. Gajender Singh Tyagi for deposition. The witness had superannuated from the services of the bank on 31.12.2009. At the relevant time, he was working as Manager in the capacity of Hall In-charge at the Janakpuri Branch of the erstwhile Oriental Bank of Commerce. The witness, in his affidavit, submitted that the workman was issued a charge-sheet dated 11.05.2005, wherein it was alleged against him that he had taken money from customers of the bank and had not deposited the same in their respective accounts. The workman was working as Clerk-cum-Cashier at the Janakpuri Branch of the erstwhile Oriental Bank of Commerce and was in charge of the cash seat.

It was alleged against the workman that on 05.06.2004, one customer of the bank namely Sh. Manpreet Singh had come to the branch to deposit a sum of Rs. 20,000/- in his SBI account no. 1044 maintained with the branch. The claimant, being the cashier, had accepted the cash from the customer and had also issued the receipt bearing his signatures in token of receipt of the amount from the customer. Similarly, in three other instances on 08.06.2004, 15.06.2004 and 19.06.2004, he had accepted sums of Rs. 24,000/-, Rs. 48,000/- and Rs. 60,000/- respectively on the said dates, but did not deposit the cash in their respective accounts. This led to lodging of an FIR, which culminated into filing of a charge-sheet and thereafter conviction of the claimant.

The following documents were exhibited by the claimant in his evidence:

1. Ex. CW1/1 – True copy of Aadhaar Card.
2. Ex. CW1/2 – True copy of Salary Slip.
3. Ex. CW1/3 – True copy of letter by account holder to the management.
4. Ex. CW1/4 – True copy of legal notice sent by customer/account holder to the management.

5. Ex. CW1/5 – True copy of letter dated 26.06.2004.
6. Ex. CW1/6 – True copy of attendance register of the claimant.
7. Ex. CW1/7 – True copy of Charge Sheet dated 11.05.2005.
8. Ex. CW1/8 – True copy of letter dated 23.05.2005.
9. Ex. CW1/9 – True copy of letter dated 27.02.2006.
10. Ex. CW1/10 – True copy of letter dated 02.03.2006.
11. Ex. CW1/11 – True copy of letter dated 15.07.2006.
12. Ex. CW1/12 – True copy of letter dated 29.09.2006.
13. Ex. CW1/13 – True copy of punishment order dated 30.12.2006.
14. Ex. CW1/14 – True copy of order dated 31.05.2007 confirming the punishment order.
15. Ex. CW1/15 – True copy of various enquiry proceedings.
16. Ex. CW1/16 – True copy of reply dated 16.01.2007 against proposed punishment order dated 30.12.2006.
17. Ex. CW1/17 – True copy of reply dated 27.06.2007 against order dated 31.05.2007.
18. Ex. CW1/18 – True copy of enquiry report dated 30.08.2006.
19. Ex. CW1/19 – True copy of Judgment of Ld. Metropolitan Magistrate dated 23.11.2015.
20. Ex. CW1/20 – True copy of Judgment of Appellate Court dated 19.05.2016.
21. Ex. CW1/21 (Colly) – True copy of letter dated 20.10.2016 along with order.
22. Ex. CW1/22 – True copy of letter dated 12.12.2016.
23. Ex. CW1/23 – True copy of medical documents of the claimant.
24. Ex. CW1/24 (Colly) – True copy of various miscellaneous correspondences between the parties.
25. Ex. CW1/25 – True copy of legal notice dated 20.02.2018.

In rebuttal, the respondent did not examine any witness. The entire argument of the claimant is that the management failed to prove the misconduct on his part because it neither brought the complete record of the enquiry proceedings nor produced any counterfoil so as to prove the misconduct against him. He drew attention of this Tribunal to the testimony of Sh. Pawan Kumar, wherein Sh. Pawan Kumar, through his legal notice dated 25.03.2005 exhibited as MW-PK2 issued through his advocate, stated that he had deposited a sum of Rs. 24,000/- on 11.06.2004, i.e., on the day when the claimant was on leave. It is further his case that he was falsely implicated and had not embezzled any money. According to him, when the counterfoil itself has not been produced, no question arises regarding issuance of any such counterfoil by the claimant.

The case of the claimant primarily rests upon the fact that he was honorably acquitted by the Sessions Court vide order dated 19.05.2016 and only thereafter filed an appeal before the respondent authority, which was dismissed. Hence, the delay cannot be attributed to him. He further drew attention to the testimony of Sh. P.K. Goyal in FIR No. 725/2004, wherein he had stated that during the relevant period, the accused used to visit Mata Chanan Devi Hospital, Janakpuri, Delhi for collection of money, and the money so collected from Mata Chanan Devi Hospital was deposited correctly and honestly in the branch of Oriental Bank of Commerce at Janakpuri Branch. Further, an amount of Rs. 25,000/- taken from the wife of the claimant was deposited in the sundry account, which amount had allegedly been taken as a loan from HDFC Bank. Accordingly, he submitted that his termination be declared illegal and unjustified.

Sh. Rajat Arora, Ld. AR for the management, stated that the burden of proof in departmental proceedings and criminal trials is different. In disciplinary proceedings, the standard of proof is not as strict as proof beyond reasonable doubt as required in criminal trials. Even the Trial Court had convicted the claimant believing the testimony of the witnesses coupled with the scientific evidence and, therefore, it cannot be said that the bank failed to prove the misconduct. Sh. Pawan Kumar (MD-PK2) (Exh.MW2/6) categorically stated that on four occasions, the claimant had issued counterfoils against receipt of different amounts from customers and had not deposited the same. An amount of Rs. 25,000/- was also found at the residence of the claimant, which was handed over by the wife of the claimant and deposited in the sundry account. The witnesses have appeared before the Trial Court and deposed accordingly. Even the investigation carried out by the police culminated into filing of a charge-sheet and ultimately resulted in conviction. Therefore, he submitted that the respondent has successfully proved the misconduct on the part of the claimant.

I have heard the arguments at length by the respective counsels for both the parties. The entire case of the claimant rests on the premise that he had been acquitted by the appellate court vide judgment dated 19.05.2016. Thereafter, the claimant approached the Conciliation Officer, which resulted in the present reference. It is further the case of the claimant that the management failed to examine any witness to prove that any cash had ever been handed over to him or that he had issued any counterfoil in this regard. According to the claimant, he had been falsely implicated in the present case and had nothing to do with the alleged misconduct. In fact, one witness, namely Sh. P.K. Goyal, in FIR No. 725/2004, admitted that during the relevant period, the claimant used to visit Mata Chanan Devi Hospital, Janakpuri, Delhi for collection of money, and that the money so collected from Mata Chanan Devi Hospital was deposited correctly and honestly in the Oriental Bank of Commerce, Janakpuri Branch.

On the other hand, the case of the management rests on the contention that the burden of proof in departmental proceedings is different from that of criminal trials. It is submitted that even the Trial Court, believing the version of prosecution, had convicted the claimant, and that he was subsequently acquitted by the appellant court merely by giving him the benefit of doubt. Therefore, according to the management. Therefore, it cannot be said that there was no misconduct on part of the claimant. The management further contended that it had brought witnesses to substantiate the fact that on four different occasions, four customers had handed over a total amount Rs. 1,52,000/- (details of which are given above), which was not deposited by the claimant. It is also argued that the lodging of FIRs and the statements recorded in the FIRs are sufficient to establish misconduct on part of the claimant. Further, no suggestion was put by the claimant to the management witnesses disputing the fact that when the amounts were not deposited in the customers' accounts, a crowd had been gathered with media and 'dhol'.

The management has placed reliance on the judgment of **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584,** where it was held that:

"12. The fact that the criminal court subsequently acquitted the respondent by giving the benefit of doubt, will not in any way render a completed disciplinary proceedings invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him."

In another matter titled **Ajit Kumar v. General Manager (PJ), Indian Oil Corporation Limited, Haldia and Others, 2005(7) SCC 764**, the Supreme Court held as under:

As far as acquittal of the appellant by a Criminal Court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a Criminal Court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a Court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability". Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal Court, the impugned order dismissing him from service deserves to be quashed and set aside.

A Judgment of the Hon'ble Supreme court of India in the matter of **Bank of India v. T. J. B. Ganesh, reported in (2000) 7 SCC 679** is relevant, wherein it was held as under:

"The Bank deals with public money. Every employee of the Bank is required to act with absolute integrity and honesty in handling such money. Any breach of trust committed by a bank employee cannot be taken lightly. It has to be dealt with iron hands, because such misconduct has far-reaching consequences not only for the Bank but also for the confidence of the public in the banking system."

If we go through the evidence brought before this Tribunal as well as the material produced before the criminal court and relied upon by the claimant himself is considered, it stands proved by the management that the

claimant was indulged in misconduct on four different occasions, by failing to deposit the amounts received from customers. Only non-production of the counterfoils by the management doesn't falsify the version of the management, which is supported by the evidence led before the criminal court as well as the testimony of the witnesses produced therein.

The relationship between a bank and its customers is of utmost faith and confidence. Any breach of trust affects the credibility of the bank in the eyes of the public. Since the misconduct on part of the claimant stands proved by the management, the punishment of dismissal in case of loss of trust cannot be said to be disproportionate. Therefore, this Tribunal doesn't find any illegality and unjustifiability in the action of the management in dismissing the claimant from service.

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.

Date: 21.05.2026 ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 31 अगस्त, 2026

का.आ. 2003.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केंद्रिय लोक निर्माण विभाग** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली -*II*** के पंचाट (97/2019) प्रकाशित करती है।

[सं. एल - 12025/01/2026- आई आर (बी-I)-213]

सलोनी, उप निदेशक

New Delhi, the 31st August, 2026

S.O. 2003.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.97/2019*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi -II* as shown in the Annexure, in the industrial dispute between the management of Central Public Work Department and their workmen.

[No. L-12025/01/2026- IR(B-I)-213]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDSUTRIAL TRIBUNAL – CUM – LABOUR COURT-II, NEW DELHI

I.D. NO. 97/2019

Sh. Santosh Singh,

Through-The General Secretary, All India Central PWD (MRM)

Karamchari Sangathan, House No.-4823, Gali no. 13,

Balbir Nagar Extension, Shahdra, Delhi-110032.

VERSUS

1. **Director General of Works, CPWD,**

   Nirman Bhawan, New Delhi-110011.

2. **The Executive Engineer,**

   Health Maintenance Division, South West, PWD, Police Line,

   Vikas Puri, New Delhi-110018.

3. Taksali Engineers Works,

   G-14/10A, 1st Floor, Rajouri Garden, Near Main Market, New Delhi-110027.

4. Shanti Trading Co.

   9/5531, Old Seelampur, West Gali No. 3, Gandhi Nagar,

   New Delhi-110031.

AWARD

13.05.2026

1. This is an application filed by the workman U/S 2A of the **Industrial Disputes Act (hereinafter referred as "the Act"),** alleging his illegal termination by the management. Claimant had stated in his claim statement that he was appointed as a "Lift Operator" on 25.02.2012 at **BR Sur Hospital, Nanakpur, New Delhi**, for operation and maintenance of the hospital lifts. His work was perennial in nature, however, he was appointed through contractors who were changed from time to time, but he remained in services under each new contractor. His services were terminated by the managements on 25.02.2018 without giving any notice, notice pay, retrenchment compensation, Bonus etc. Consequently, he was constrained to file his case before the Conciliation Officer, New Delhi, for redressal of his grievances, however, no result was yielded. Hence, he filed the present claim u/s 2A of the Act, praying for the following reliefs:

   (i) Reinstatement of his services with full back wages.

   (ii) Regularization in service from the date of employment with the management of CPWD.

   (iii) Grant of equal pay for equal work.

2. Respondent no. 1 & 4 had not appeared and were proceeded ex-parte vide order dated 21.10.2019. Respondent no. 2 & 3 have filed their respective written statements.

3. Respondent no. 2, in its WS, has stated that present petition filed by the workman against the management no. 2 is not maintainable in the eyes of law, as the workman had concealed the material facts from this Hon'ble Court. Workman had not stated true and correct facts; termination or appointment of contract is neither belongs to the management nor the workman, it is only belongs to the contractor not a workman. He stated that management no. 2 has no concern and have no liability about the appointment of the workman. Hence, he submitted that claim be dismissed qua him.

4. Respondent no. 3, in its WS, has stated that claim of the claimant is not maintainable in the present form as the "Relief No. 1 of reinstatement" sought by the workman against more than one management is totally incorrect and untenable. He submitted that workman was given the contract of maintenance and operation of the engineering works of **Dr. BR Sur Homeopathic College and Hospital, Nanakpura, New Delhi vide agreement no. 119/EE(E)/PWD HMED SW/2016-2017** for the maintenance and operation of engineering works i.e. **Pump Sets, Street/Compound Lights, DG Sets, Fire Fighting Systems, Lifts for a period of 2 years from 07.10.2016 to 06.10.2018**, and that it was only by virtue of the said agreement, the workman herein who was already working as a lift operator, was retained by the management for the period of their contract agreement i.e. 07.10.2016 to 06.10.2018, and that beyond this period, the workman had no lien in any manner with the management, as his employment remained solely time bound. Even otherwise, claim of the claimant seems to be misconceived as after cessation of the contract agreement of the management, the new contractor i.e. management no. 4 stepped in, who though retained some of the earlier employees, but did not opt keeping the present workman. He further submitted that before the Office of Joint Labour Commissioner, S-W District, New Delhi, workman was offered employment at one of their sites at Gurugram, but, workman has refused the offer. Hence, he submitted that claim is liable to be dismissed.

5. After completion of the pleadings, vide order dated 26.04.2022 followings issues have been framed:

   (i) Whether the proceeding is maintainable.

   (ii) Whether there exist employer and employee relationship between the claimant and the management no. 1 CPWD.

   (iii) Whether the service of the claimant was illegally terminated by the management no. 1.

   (iv) Whether the claimant though offered the employment by management no. 3 refuse to accept the same.

   (v) To what relief the claimant is entitled to.

6. In order to prove his case, workman had entered into the witness box. He has reiterated the same facts as mentioned by him in his claim statement. He has filed his affidavit, exhibited as **Ex. WW1/A**. He has relied upon the seven documents i.e.:

   (i) **Ex. WW1/1-** Copy of letter dated 25.07.2018 sent to the Executive Engineer, Health Maintenance Board, South West, and PWD Maintenance.

   (ii) **Ex. WW1/2-** Copy of letter dated 27.11.2018 sent to the management through union.

   (iii) **Ex. WW1/3-** Copy of proceedings/complaint filed before the Conciliation Officer.

(iv) **Ex. WW1/4-** Copy of certificate issued under section 2-A of the Act.

(v) **Ex. WW1/5-** Copy of letter dated 29.09.2016 regarding award of contract to M/s Takshali Engineers Works.

(vi) **Ex. WW1/6-** Copy of letter dated 18.05.2018 denying the conversation held on 17.05.2018 in the presence of the Labour Enforcement Officer.

(vii) **Ex. WW1/7-** Copy of objection letter denying the alleged settlement receipt filed by management no. 3.

7. In rebuttal, management no. 3 filed its affidavit, exhibited as **Ex. M3W1/A**. He has reiterated the same facts as mentioned in his written statement. He has relied upon the documents i.e.:

(i) **Ex. M3W1/1-** Copy of letter dated 29.09.2016 regarding award of contract for the period of two years from 07.10.2016 to 06.10.2018.

(ii) **Ex. M3W1/2-** Copy of e-mail dated 17.05.2018 extending the offer to the workman.

(iii) **Ex. M3W1/3-** Copy of reply dated 18.05.2018 sent by the workman showing his inability to resume duties at the said site.

(iv) **Ex. M3W1/4-** Copy of full and final settlement with the workman.

(v) **Ex. M3W1/5-** Copy of salary details of workman from 04.10.2016 to 25.02.2018.

8. The entire case of the claimant is centered around the fact that management no. 3 had been awarded the contract from 07.10.2016 to 06.10.2018 and had terminated the services of the workman on 25.02.2018 without any rhyme and reason. Though, the claimant filed the claim against the management no. 1, 2, 3 & 4, however, his primary grievance is against the respondent no. 3, who retained him as a "Lift Operator" and subsequently terminated his services. AR for the workman has drawn the attention of this Tribunal towards the cross-examination of the management witness (M3W1), wherein the witness admitted to have been awarded the contract already exhibited as Ex. WW1/5 and Ex. M3W1/1. It was admitted that he did not issue the appointment letter to the workman. AR for the workman further drawn the attention of the management-3, where he admitted that workman has worked for less than two years with management no. 3 i.e. 04.10.2016 to 25.02.2018. On Feb, 2018, salary of the workman was Rs. 11,472/-. He further admitted that no compensation had been paid to the workman at the time of final settlement.

9. Per contra, counsel for the management no. 3 submitted that, in the year 2017, Delhi Government had enhanced the minimum wages by approximately 40% and he had written to the executive engineer for enhancement of the value of the contract, keeping in view of the enhancement of the minimum wages which was declined and for this he himself had written to the executive engineer to close the contract and the management has forfeited his security deposit after closing of the contract. Hence, the service of the workman stood came to an end on 25.02.2018. In the backdrop of these arguments, the issues in hands are decided.

10. Before proceeding further, text of section 25F, G and H of the Act are required to be reproduced herein:

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 2 [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 3 [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.

11. On perusal of the above said sections, it is inferred 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.

12. It is admitted fact that it is the management no. 3, who has retained the workman as "Lift Operator" upon initiation of the contract, which started from 04.10.2016 to 25.02.2018. He has terminated the services of the workman without complying with the provision of Section 25F of the Act. Whatever the reason may have been, the services of the workman could not have been terminated in such a manner. The offer given by the management no. 3 before the redressal forum does not absolve it of liability and appears to have been made only to avoid legal consequences. The offer was made for employment at Gurugram, whereas the workman had been performing duties in Delhi. Moreover, acceptance or refusal of such an offer does not provide any leverage to the employer against the act of illegal termination.

13. In the light of the above discussion, issue no. 1 is decided in favour of the workman and against the management, holding that the proceedings are maintainable. The evidence suggests that an employer and employee relationship existed between the claimant and the management no. 3 i.e. Taksali Engineers Works, because workman had admittedly been retained by the management no. 3 as "Lift Operator" upon initiation of contract by management no. 1 and 2. As earlier held that the services of the workman were illegally terminated by the management no. 3. Accordingly, issue no. 3 is decided in favour of the workman and against the management no. 3.

14. Now, the question arises as to what relief the workman is entitled. As a general rule, when termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. 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. Similar views were expressed by Hon'ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt. Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219** wherein it was held by the court that even if the termination is found to be illegal, the relief of reinstatement with full back wages need not be granted automatically, and the relief may be moulded according to the facts and circumstances of each case, and the court can allow compensation to the claimant instead of reinstatement with back wages. The same principle has been reiterated by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC,** wherein it was observed that upon dismissal being aside by a court of Law, reinstatement with full back wages is not an automatic relief and in certain situations, lump sum compensation is a better relief.

15. Given these circumstances, a lump sum compensation of Rs. 3,00,000/- (Rupees Three Lac Only) is considered an appropriate relief. Hence, management-3 i.e. Taksali Engineers Works, is hereby directed to pay compensation of Rs. 3,00,000/- (Rupees Three Lac Only) to the claimant within two months of notification of this award, failing which the management-3 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 section17 of the Act. The file is consigned to record room.

Date: 13.05.2026 ATUL KUMAR GARG, Presiding Officer.

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2004.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **न्यू भोपाल टेक्सटाइल मिल्स भोपाल; नेशनल टेक्सटाइल कॉर्पोरेशन** के नियोक्ताओं के संबंध में और **श्री अजय पांडे** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या **04/2025**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/116-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2004.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **04/2025)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **New Bhopal Textile Mills Bhopal; National Textile Corporation** and **Ajay Pandey,** workman.

[No. L-42025/07/2026/116-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM

LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/04/2025

Present: P.K.Srivastava

H.J.S..(Retd)

Ajay Pandey,
S/o Shri Laxmi Prasad Pandey
Aged about 34 years,
R/o Ayodhya bypass Road Near Bonni Foi Collage,
Bhawani Dham Phase-1,
Narela Shankri Huzur Tehsil Huuzur,
District Bhopal M.P. Pin Code No.462022 Workman

Vs.

1. New Bhopal Textile Mills Bhopal
Through Its Karkhana Prabhndhak,
New Bhopal Textile Mills Bhopal,
Chand Barh, Nearby Bhopal Railway Station,
District Bhopal (M.P.)
2. Divisional Manager (National Textile Corporation)
Northern Region of India,
Scope Complex Core-IV 07,
Lodhi Road New Delhi 110003.

Management

AWARD

Passed on this 05th day of February - 2026

The petition is filed Section 2(A) (2&3) of the Industrial Disputes Act, 1947 as amended by Amendment Act of 2010 (in short the 'Act') with the case of the workman is that, he is an employee of the Management New Bhopal Textile Mills, which is a Unit of National Textile Corporation and is the workman under the Act. He joined the service with the Management of new Bhopal Textile Mills w.e.f. 01.11.2012 and worked continuously for 14 years as a daily rated/skilled employee/fitter/helper he was allotted token No. 6079. He was issued an appreciation certificate on 12.07.2015 by the Management. His services were terminated by Management vide oral order dated 1.3.2023 without any notice or compensation. Though Salmaan Khan, Rajat, Umesh and Ravi who joined after the Workman and were junior to him have been continued in service. This action of Management is in violation of Section 25F and 25G of the Act, hence is unjust, illegal and arbitrary. He raised a dispute with the concern Labour Commissioner which could not be conciliated within 45 days hence he has filed this petition seeking his reinstatement with back wages,

In evidence, the workman files his affidavit as his examination in chief. He filed copy of the certificate issued by Conciliation Officer, copy of appreciation certificate issued by Management, copy of ESI card issued by ESIC which he proved, PF slip for the year 214-15.

None appeared for the Management in spite of service of notice. No written statement of defense was filed.

I have heard ex parte argument of Learned Counsel for the petitioner Mr. Rajesh Soni and have gone through the record.

In his affidavit which is uncontroverted the workman has corroborated his allegation in his petition. The documents filed and proved referred to above, corroborates his allegations. Hence continuous engagement of the workman as alleged by him is held proved. Since the workman has successfully proved that he was issued no notice nor he was paid any compensation on his disengagement is held in violation of Section 25F and 25G of the Act.

As regards relief, undisputedly the workman was a daily wager, hence his reinstatement while not be justified in law. Keeping in view his long tenure a lump sum compensation of Rs. 5,00,000/- (Rupees Five Lacs) in lieu of all his claims will meet the ends of justice to which he is entitled to receive from Management within 60 days from the date of Award failing which interest @6% per annum from the date of Award till payment.

The petition stands decided accordingly.

AWARD

Setting aside the termination of the petitioner workman Ajay Pandey, he is held entitled to a lump sum compensation of Rs. 5,00,000/- (Rupees Five Lacs) in lieu of all his claims from Management Bank within 60 days from the date of Award failing which interest @6% per annum from the date of Award till payment.

Date: 05.02.2026 P.K.SRIVASTAVA, RESIDING OFFICER

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2005.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **नेशनल इंस्टीट्यूट ऑफ़ टेक्निकल टीचर्स ट्रेनिंग एंड रिसर्च** और **श्री मनोज कुमार शर्मा और अन्य** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या **05/2021**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42012/30/2020-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2005.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **05/2021)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Iinstitute of Technical Teachers Training & Research, Shymla Hills** and **Sh. Manoj Kumar Sharma & Ors,** workman.

[No. L-42012/30/2020-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR (M.P.)

NO. CGIT/LC/ R/05/2021

Present: P.K.Srivastava

H.J.S..(Retd)

Sh. Manoj Kumar Sharma & Ors.,

ND-20, NITTTR Campus, Shyamla Hills,

Bhopal (M.P.)- 462011 **Workman**

Vs

Director,

National Iinstitute of Technical Teachers

Training & Research, Shymla Hills,

Bhopal (M.P.)- 462011 **Management**

JUDGMENT

Passed on this 03rd day of February, 2026

As per letter dated ***24/12/2020*** 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-42012/30/2020(IR(DU))*** dt. ***24/12/2020***. The dispute under reference relates to:-

"1. **क्या, निदेशक, नेशनल इंस्टीट्यूट ऑफ टेक्निकल टीचर्स ट्रेनिंग एण्ड रिसर्च, भोपाल द्वारा आवेदकगण श्री मनोज कुमार शर्मा एवं अन्य *10* कर्मकारों (संलग्न सूची परिशिष्ट "ख" के अनुसार) को मौखिक आदेश के द्वारा दिनांक *16.09.2019* से कार्य से विरत किया जाना क़ानूनी रूप से न्यायोचित है*?* यदि नहीं, तो क्या उक्त आवेदकगण अपने पूर्व के कार्य पर उसी स्थिति में नियोजन तथा तत्संबंधी अनुतोष पाने के अधिकारी हैं*?* मामले में अन्य आवश्यक निर्देश (यदि कोई हो) क्या है*?"***

2. **क्या उक्त सभी कामगार नियोजक के यहां स्थाई सेवा (नियमतीकरण) के अधिकारी हैं*?* यदि हां, तो किस तिथि से, किस पद एवं किस वेतनमान पर नियोजित किये जायेंगे*?* मामले में अन्य आवश्यक निर्देश (यदि कोई हो) क्या है*?"***

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

The workmen Mahesh Yadav, Kishan Lal Raghuwanshi, Papu Yadav, Sharda Bai, Boby Gabriel, Gheesi Bai, Prem Narayan Mehra, Rajesh Taide and Rajkumar Shakya have filed separate statements of claims and management has also filed separate written statements of defense to the claims in this case. The case of the workmen is almost common. According to the workmen side, the workman Mahesh Yadav was first appointed as helper in the canteen on 01.01.2008 on monthly wages, Rs. 12,500/- per month, Kishan Lal Raghuwanshi was appointed as head-cook on 01.10.2001 on monthly wages, Rs. 13,800/- per month, Papu Yadav was appointed as helper on 09.05.2000 on monthly wages, Rs. 12,500/- per month, Sharda Bai was appointed as helper on 01.08.1996 on monthly wages, Rs. 12,500/- per month, Boby Gabriel was appointed as helper on 05.05.1999 on monthly wages, Rs. 12,500/- per month, Gheesi Bai was appointed as mess-helper on 11.10.2000 on monthly wages, Rs. 12,500/- per month, Prem Narayan Mehra was appointed as mess-helper on 05.07.1993 on monthly wages, Rs. 12,500/- per month, Rajesh Taide was appointed as head-cook on 01.04.2017 on monthly wages, Rs. 12,600/- per month & Ramkumar Shakya was appointed as helper on monthly wages, Rs. 12,500/- per month, by the management of National Iinstitute of Technical Teachers Training & Research, Bhopal against vacant posts. They were provided accommodation in the campus. They had continuously been working since the date of their appointment till 16.09.2019, when their services were unilaterally and arbitrarily terminated by the management without any notice or compensation. They had acquired status of a permanent employee and were entitled to the said status by putting in such a long tenure with the management, this action of management is unfair labour practice and is in violation of section 25-F & 25-G of the Act. Also, it is the case of these workmen that there are more than 500 employees working in the establishment and no approval for retrenchment was obtained by the management as per law, which is in violation of section 25-N of the Act. Thus, according to these workmen, this action of management is unjust, illegal and arbitrary, they have sought a relief of their reinstatement with all back-wages and benefits.

The case of management in their written statements is mainly that there is Mess Committee in the Institute which manages the Mess and Canteen work, the Institute does not employ any person in the mess, it is the Mess Committee who employs and has employed these workmen to work in the canteen and the mess, these workmen used to work in the mess as an employee of the Mess Committee but never worked for 240 days or more in any year. Since, there is no relation of employer-employee between these workmen and the Institution, there is no question of termination of services of these workmen by the Institute. The management has requested that the reference be answered against these workmen.

In evidence, these workmen have filed their affidavits as their examination-in-chief, out of which workmen Gheesi Bai, Sharda Bai, Manoj Kumar Sharma, Boby Gabriel, Papu Yadav, Prem Narayan Mehra, Ramkumar Shakya and Kishan Lal Raghuwanshi have been cross-examined by the management. The management has filed separate affidavit of its witness Dr. A.S. Balke with respect to the affidavits of each of the workmen, contents of the affidavits are same, and he has been cross-examined by workmen side. Management has filed and proved office order dated

27.07.2012, house allotment order, order dated 27.12.2011 regarding constitution of new Mess Committee, order dated 26.10.2009 regarding constitution of Mess Committee, order dated 12.07.2004 regarding constitution of Mess Committee, order dated 03.06.2004 regarding constitution of various committees including mess and canteen committee, which are Ex-M/1 to Ex-M/7.

The workman side has filed photocopies of interview letters of these workmen which they did not care to prove. They have also filed photocopies of statements of accounts which are not certified, the certified copy of statement of workmen Kishan Lal Raghuwanshi, Mahesh Yadav, Manoj Sharma, Ramkumar Shakya and Papu Yadav is on record, has also been filed by the workmen which are admissible in evidence under *Bankers Book & Evidence Act* without being formally proved.

I have heard argument of Learned Counsel for workmen Mr. R.B. Tiwari and Smt. Kanak Geharwar, Learned Counsel for the management. The workman side has filed written arguments. I have gone through written arguments and the record as well.

On perusal of record in light of rival arguments, following Issues came up for determination:-

1) Whether the workmen have successfully proved their continuous engagement with the Institute as defined under section 25-B of the Act?

2) Subject to finding of Issue No. 1, where the action of Institute in disengaging the workman is in violation of section 25-F & 25-G and also it is unfair labour practice adopted by the Institute by engaging these workmen for a long period as casual/temporary employees?

3) Whether the workmen are entitled to any relief?

Issue No.1,

Before proceeding, **Section 25-B of the Act**, which defines '***continuous service***', is being reproduced as follows:-

"***25B. 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 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;

(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."

Pleadings of parties on this issue have already been elaborated on these issues. The workmen corroborated their allegations on these issues in their affidavits as their examination-in-chief. They have stated that they were appointed as helpers/cook on different dates as mentioned in their affidavits by the Institute. They were also allotted residential accommodation inside the Institute for which they used to pay rent to the Institute, they continuously worked till the date of disengagement.

In their cross-examination, these workmen have stated that they have not filed their appointment letters, workmen Boby Gabriel has stated that they had applied when the post was advertised but they were not called for the interview. Manoj Sharma stated that he appeared before the interview Board but was not issued appointment letter, other workmen have also stated that they were issued interview letters when regular vacancies were advertised but were not selected. There is nothing more in their cross-examination.

These workmen have failed to file any appointment letter to substantiate their claim that they were in fact appointed by the Institute, some of the workmen have filed certified statements of their accounts which shows that amounts have been credited in their accounts but it is not clear that these amounts were paid by the Institute. Some photocopy letters have been filed by the workmen which shows that they were appointed for a fixed term by the Institute but they have not cared to prove these documents hence, they cannot be read as evidence in their favour. Moreover, there is no document filed by the workmen to show that their PF contribution was deposited by the Institute.

On the other hand, management witness has stated that these workmen were appointed by the Mess Committee which is running in the Institute and is responsible for effective running of mess and canteen in the training. There is no cross-examination of this witness.

Hence, in light of above description of facts, the fact that workmen were engaged by the Institute and they worked for 240 days with the Institute as its employees is held not proved.

Issue No. 1 is answered accordingly.

Issue No. 2

In the light of findings, on Issue No. 1, the termination of the workman is held not in violation of the Act.

Issue No. 2 stands answered accordingly.

Issue No. 3

In light of above discussion and findings, the workmen are held entitled to no relief.

Accordingly, the reference is answered as follows.-

AWARD

"Holding the action of the management in disengaging the workmen Manoj Kumar Sharma & 10 others, from 16.09.2019, legal and justified, they are held entitled to no relief."

No order as to cost.

Date: 03.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2006.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्राइमवन वर्कफोर्स प्राइवेट लिमिटेड , काप्रो मैनेजमेंट सॉल्यूशंस प्राइवेट लिमिटेड , भारतीय प्रौद्योगिकी संस्थान** का प्रबंधन और **श्री मांगीलाल कचनरिया** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण-सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या **14/2020**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/121-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2006.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. 14/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. Prime One Workforce Pvt. Ltd., M/s. Kaapro Management Solutions Pvt. Ltd , Indian Institute of Technology** and **Shri Mangilal Kachneriya,** workman.

[No. L-42025/07/2026/121-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/14/2020

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Mangilal Kachneriya,

S/o. Shri Gopichand Kachneria,

Jagjeevan, Vill: Simrol, Indore (Madhya Pradesh). **Workman**

Versues

1. **M/s.PrimeOne Workforce Pvt. Ltd..**

   R-47, Zone-II, M.P. Nagar,

   Bhopal (Madhya Pradesh)-462 011.

2. **M/s.Kaapro Management Solutions Pvt. Ltd.,**

   201, Royal Diamond, Y.N. Road,

   Indore (Madhya Pradesh) - 452 003.

3. **Registrar,**

   Indian Institute of Technology,

   DAVV Campus, Khandwa Road,

   Indore (Madhya Pradesh)-452 017. **Management**

AWARD

Passed on this 06th day of February, 2026

As per letter dated 05/02/2020 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **J-1(1-9)/2020-IR** dt. 05/02/2020. The dispute under reference relates to:

"***Whether the action of the management of M/s PrimeOne Workforce Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of the workman Shri Mangilal Kachneria working in the establishments of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 13.04.2016 respectively are just & proper? If yes, what relief the Workman concerned is entitled to and from which date?***"

The said reference was modified vide order No. J-1(1-9)/2020-IR dated 05.02.2020 as follows-

"Whether the action of the management of the Registrar, Indian Institute of Technology (IIT), Indore (M.P.) / M/s.PrimeOne Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of workman Shri Mangilal Kachneria working in the establishment of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 13.04.2016 respectively, are just and proper? If yes, what relief the workman concerned is entitled to and from which date?"

Case of the workman side is that, the Institute published an advertisement for engagement of Drivers, Clerks etc. by way of walk in interview and the workman Mangilal Kachneriya appeared for interview. He was selected and was appointed with the Institute at Driver. Later on he came to known that his engagement was shown as a contract employee of M/s Kaapro Management Solution Limited which is a camouflage adopted by the Institute just to deny the workman his legal claims. There was no mention in the advertisement that the appointment shall be made through the private company. The workman has been working with the Institute and has been discharging the work of same nature done by his regular counter parts. Since, 2016 another outsourcing agency M/s Prime One Workforce Limited was shown as Outsourcing Agency and the appointment of the workman was shown through that outsourcing agency by way of a fresh appointment letter extended from time to time lastly renewed from 16.04.2017 to 15.04.2018. The Workman was disengaged vide order of the contractor M/s Prime One Workforce Limited w.e.f. 16.02.2018on the ground that the Contract with the institute has came to an end. According to the workman he was engaged in a work of permanent and perennial nature, the contractors were camouflage. His engagement is thus against Section 25F and 25G as well Rules 77 of ID Central Rules, 1957. The workman side has prayed that he be reinstated with back wages and benefits.

Notices were issued to the Management. None appeared from their side in spite of service. No written statement of defense was filed. After the reference, the Workman died and at present he is represented by his legal representatives.

In evidence, the Workman filed his affidavit as his examination in chief. There is no cross examination from the side of any Management.

I have heard ex-parte argument of Learned Counsel for the Workman Mr. Pranay Choubey and have been gone through the record.

It is case of workman that appointment letters were issued by the Outsourcing Agency and last appointment letter dated 15.02.2016 effective from 16.02.2016. In absence of any evidence in rebuttal the case of Workman to the extent that he was appointed by Outsourcing Agency and worked for 240 days at least in the year preceding date of his termination by the outsourcing agency M/s Prime One Workforce limited is held proved on the basis of his uncontroverted affidavit. Since, it is ascertain that he was paid no notice pay or compensation hence, his disengagement is in violation of 25G of the Act.

As regards to relief, in view of the facts and circumstances of the case in hand, a lump sum amount of Rs. 50,000/- (Rupees Fifty Thousand) in lieu of all the rights will meet the end of justice in the case in hand to which the workman is held entitled to recover from M/s Prime One Workforce Limited.

The reference stands answered accordingly.

AWARD

Holding the action of the management of the Registrar, Indian Institute of Technology (IIT), Indore (M.P.) / M/s.PrimeOne Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of workman Shri Mangilal Kachneria working in the establishment of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 13.04.2016 is held unjust and illegal. He is held entitled to lump sum amount of Rs. 50,000/- (Rupees Fifty Thousand) in lieu of all the rights will meet the end of justice in the case in hand to which the workman is held entitled to recover from M/s Prime One Workforce Limited.

Date: 06.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2007.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **राष्ट्रीय हरित अधिकरण** और **श्री भूपेंद्र उइके** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या - **15/2023 और 35/2023**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/120-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2007.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref.No. 15/2023 & 35/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Green Tribunal** and **Shri Bhupendra Uikey,** workman.

[No. L-42025/07/2026/120-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR, (M.P.)

Present: P.K.Srivastava, H.J.S..(Retd)

1. NO. CGIT/LC/R/15/2023

Shri Bhupendra Uikey,

653, Bheem Nagar,Quarter No. 3 Ki Jhuggi,

Vallabh Bhawan,

Bhopal (M.P.) 462004

Workman

V/s

The Registrar,

National Green Tribunal,

Central Zone Bench,

3rd Floor, Rajya Aayog Bhawan,

Arera Hills,

Bhopal (M.P.) 462011

Management

……Leading Case

2. NO. CGIT/LC/R/35/2023

Shri Bhupendra Uikey,

653, Bheem Nagar,Quarter No. 3 Ki Jhuggi,

Vallabh Bhawan,

Bhopal (M.P.) 462004

Workman

V/s

National Green Tribunal,

Central Zone Bench,

SIC Building,

3rd Floor, Arera Hills,

Bhopal (M.P.) **Management**

JUDGMENT

Passed on this 6th day of February, 2026

Since in both the cases, the same reference between the same parties was received through channels, two separate cases were registered initially, later on they were merged into one case, the references, sent to this Tribunal by the Department, Chief Labour Commissioner, Central Jabalpur, vide its letter ***No. J-1(1-20)/2022-IR*** dated ***02.03.2023*** in exercise of power conferred by ***clause d of sub-section (1) and sub-section (2A) of Section-10 of Industrial Disputes Act, 1947*** (in short the '***Act'***), and delegation of power by Central Government, vide its Notification ***No. SO 1936(E)*** dt. ***10.06.2019***. The reference has been sent to this Tribunal which is as follows:-

"क्या आवेदक कर्मकार श्री भूपेन्द्र उइके को, नेशनल ग्रीन ट्रिब्यूनल प्रबंधन व्दारा नौकरी से बिना किसी सूचना के निकाला जाना उचित है? यदि नहीं, तो वह किन लाभों के साथ पुनः नौकरी पाने का हकदार है?"

After registering the case on the basis of reference, notices were sent to the parties. They appeared and filed their pleadings.

A preliminary objection with regard to maintainability of this reference was taken by management with a case that they are National Green Tribunal, established by the Government of India under Central Legislation and have been entrusted with a task of adjudication of disputes under their jurisdiction. Hence, they discharged sovereign functions of the State and are not Industry as defined u/s 2(j) of the Act.

I have heard, Learned Counsel in Panel, Mr. Arun Patel also in light of preliminary objections and have gone through the record.

Section 2(j) of the Act is being reproduced as under:-

"(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;"

Judgment of Seven Judges Bench of Hon'ble Supreme Court in the case of Bangalore Water-Supply & Sewerage v/s R. Rajappa & Others, ***(1978) 2 SCC 213***, requires to be referred to herein, Para 143 of the said Judgment is being reproduced as under:-

"143. The dominant nature test:

(a) where a complex of activities, some of which qualify for exemption others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi Case or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be true test. The whole, undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, alone qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.

(c) Even in departments discharging sovereign functions, if there are units which are industries and they are Substantially severable, then they can be considered to come within sec. 2(j).

(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."

In light of judgment referred to, since National Green Tribunal is discharging the sovereign functions they do not qualify to be an Industry u/s 2(j) of the Act. Accordingly, the dispute in the reference is not cognizable by this Tribunal.

ORDER

"The Reference stands answered accordingly."

No order as to cost.

Date 06.02.2026 P.K.SRIVASTAVA, PRESIDING OFFICER

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2008.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स प्राइमवन वर्कफोर्स प्राइवेट लिमिटेड, मेसर्स काप्रो मैनेजमेंट सॉल्यूशंस प्राइवेट लिमिटेड, भारतीय प्रौद्योगिकी संस्थान** का प्रबंधन और **स्वर्गीय श्री दिलीप सिंह झालाल, नर्मदा झाला, निकिता झाला, वीरेंद्र झाला द्वारा प्रतिनिधित्व** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या: 15/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल-42025/07/2026/111-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2008.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. 15/**2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. Prime One Workforce Pvt. Ltd., M/s. Kaapro Management Solutions Pvt. Ltd, Indian Institute of Technology** and **Late Shri Dilip Singh Jhalal, Represented by Smt. Narmada Jhala, Nikita Jhala, Veerendra Jhala,** workman.

[No. L-42025/07/2026/111-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/15/2020

Present: P.K.Srivastava

H.J.S.(Retd)

Shri Dilip Singh Jhalal,

S/o Shri Ram Singh Jhalal,

168, Ganesh Nagar ke pass,

Bilvali, Indore (M.P.) – 452001

Workman since died.

He was represented by his legal representatives-

1. **Smt. Narmada Jhala,**
   W/o Late Dilip Jhala,
   R/o 4, Khadva Naka,
   Ganesh Nagar, Bilawali,
   Indore (M.P) – 452001
2. **Nikita Jhala,**
   D/o Late Dilip Jhala,
   R/o 4, Khadva Naka,
   Ganesh Nagar, Bilawali,
   Indore (M.P) – 452001
3. **Veerendra Jhala,**
   W/o Late Dilip Jhala,
   R/o 4, Khadva Naka,
   Ganesh Nagar, Bilawali,
   Indore (M.P) – 452001 **Workman**

VERSUES

1. **M/s.PrimeOne Workforce Pvt. Ltd..**
   R-47, Zone-II, M.P. Nagar,
   Bhopal (Madhya Pradesh)-462 011.
2. **M/s.Kaapro Management Solutions Pvt. Ltd.,**
   201, Royal Diamond, Y.N. Road,
   Indore (Madhya Pradesh) - 452 003.
3. **Registrar,**
   Indian Institute of Technology,
   DAVV Campus, Khandwa Road,
   Indore (Madhya Pradesh)-452 017.

Management

AWARD

Passed on this 06th day of February, 2026

As per letter dated 05/02/2020 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **J-1(1-10)/2020-IR** dt. 05/02/2020. The dispute under reference relates to:

"***Whether the action of the management of M/s PrimeOne Workforce Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of the workman Shri Dilip Singh Jhala S/o Shri Ram Singh Jhala working in the establishments of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 28.04.2016 respectively are just & proper? If yes, what relief the Workman concerned is entitled to and from which date?***"

The said reference was modified vide order No. J-1(1-10)/2020-IR dated 05.02.2020 as follows-

"Whether the action of the management of the Registrar, Indian Institute of Technology (IIT), Indore (M.P.) / M/s.PrimeOne Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of workman Shri Dilip Singh Jhala S/o Shri Ram Singh Jhala working in the establishment of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 13.04.2016 respectively, are just and proper? If yes, what relief the workman concerned is entitled to and from which date?"

Case of the workman side is that, the Institute published an advertisement for engagement of Drivers, Clerks etc. by way of walk in interview and the workman Dilip Singh Jhala (now deceased) represented through his legal representatives, appeared for interview. He was selected and was appointed with the Institute at Driver. Later on he came to known that his engagement was shown as a contract employee of M/s Kaapro Management Solution Limited which is a camouflage adopted by the Institute just to deny the workman his legal claims. There was no mention in the advertisement that the appointment shall be made through the private company. The workman has been working with the Institute and has been discharging the work of same nature done by his regular counter parts. Since, 2016 another outsourcing agency M/s Prime One Workforce Limited was shown as Outsourcing Agency and the appointment of the workman was shown through that outsourcing agency by way of a fresh appointment letter extended from time to time lastly renewed from 16.04.2017 to 15.04.2018. The Workman was disengaged vide order of the contractor M/s Prime One Workforce Limited w.e.f. 16.02.2018on the ground that the Contract with the institute has came to an end. According to the workman he was engaged in a work of permanent and perennial nature, the contractors were camouflage. His engagement is thus against Section 25F and 25G as well Rules 77 of ID Central Rules, 1957. The workman side has prayed that he be reinstated with back wages and benefits.

Notices were issued to the Management. None appeared from their side in spite of service. No written statement of defense was filed. After the reference, the Workman died and at present he is represented by his legal representatives.

In evidence, the Workman filed his affidavit as his examination in chief. There is no cross examination from the side of any Management.

I have heard ex-parte argument of Learned Counsel for the Workman Mr. Pranay Choubey and have been gone through the record.

As it comes out from the perusal of record the workman died and there is no question of his reinstatement. It is his case that appointment letters were issued by the Outsourcing Agency and last appointment letter dated 15.02.2016 effective from 16.02.2016. In absence of any evidence in rebuttal the case of Workman to the extent that he was appointed by Outsourcing Agency and worked for 240 days at least in the year preceding date of his termination by the outsourcing agency M/s Prime One Workforce limited is held proved on the basis of his uncontroverted affidavit. Since, it is ascertain that he was paid no notice pay or compensation hence, his disengagement is in violation of 25G of the Act.

As regards to relief, in view of the facts and circumstances of the case in hand, a lump sum amount of Rs. 50,000/- (Rupees Fifty Thousand) in lieu of all the rights will meet the end of justice in the case in hand to which the workman is held entitled to recover from M/s Prime One Workforce Limited.

The reference stands answered accordingly.

AWARD

Holding the action of the management of the Registrar, Indian Institute of Technology (IIT), Indore (M.P.) / M/s. PrimeOne Pvt. Ltd. and M/s. Kaapro Management Solutions Pvt. Ltd. in terminating the services of workman Shri Dilip Singh Jhala S/o Shri Ram Singh Jhala (now deceased) working in the establishment of Registrar, Indian Institute of Technology, Indore (M.P.) w.e.f. 16.02.2018 and 13.04.2016 is held unjust and illegal.

A lump sum amount of Rs. 50,000/- (Rupees Fifty Thousand) in lieu of all the rights will meet the end of justice in the case in hand to which the legal representatives of the workman are held entitled to recover from M/s Prime One Workforce Limited.

Date 06.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2009.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक्सिस बैंक एंड सिक्योरिटीज लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **लखनऊ** के पंचाट (28/2021) प्रकाशित करती है

[सं. एल– 12012/01/2021- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2009.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.28/2021*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Axis Bank & Securities Ltd. and their workmen.

[No. L-12012/01/2021- IR (B-I)]

SALONI, Deputy Director

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

(I.D. No.28 of 2021)

Reference No.L-12012/01/2021-IR(B-I) dated 1.2.2021

Renu Sharma, w/o Shri Susheel Kumar Sharma,

resident of B5/407, Fourth Floor, Nandini Enclave,

Phase-3, Avadh Vihar Yojna, Lucknow.

(renu0522@gmail.com) **.....Claimant**

Versus

1. The Managing Director and CEO, Axis Bank &Securities Ltd.

Axis House, C-2, Wadia International Centre,

Pandurang Budhkar Marg, Worli, Mumbai- 400025

2. The HR Head, Axis Bank & Securities Ltd,

Axis House, C-2, Wadia International Centre,

Pandurang Budhkar Marg, Worli, Mumbai-400025

3. The Vice President, HR, Axis Bank & Securities Ltd,

Axis House, 8th Floor, Wadia International Centre,

Pandurang Budhkar Marg, Worli, Mumbai- 400025.

4. The JGM (Legal and compliance), Axis Bank & Securities Ltd,

Axis House, 8th Floor, Wadia International Centre,

Pandurang Budhkar Marg, Worli, Mumbai-400025. **.....Respondents**

AWARD

By means of order/reference no. L-12012/01/2021-IR(B-I) dated 15.02.2021, the Central Government considered it desirable to refer the dispute for adjudication to the following effect:-

"1 Whether the action of the management of Axis Securities Ltd. to re-design the job description of the employee Ms. Renu Sharma due to closing of retail asset product is illegal and unjustified in the eye of law or not?

2 If yes, to what relief the concerned workman is entitled?"

I have heard Sri R.K Khatri learned counsel for the claimant and Sri Srikant Tripathi Learned Counsel for the respondent and perused the records.

FACTS OF THE CASE

In brief the facts of the case are after reference dated 15.02.2021, & before filing the claim petition before this Tribunal, as per reference dated 15.02.2021, the services of the claimant was terminated by an order dated 02.03.2021.

After termination of her services on 02.03.2021, claimant filed the claim statement on 01.09.2021, before this Tribunal, registered as I.D. No.28 of 20021 (Renu Sharma Versus Axis Bank).

CASE OF THE CLAIMANT IN CLAIM PETITION

Facts in brief as stated by the claimant in the claim petition are that she was appointed as Service Executive in the Axis Securities and Sales Ltd. through offer letter dated 3.11.2021 in Retail Sales Vertical & Delivering in Branch Ops HR, Human Resources Work.

The claimant had been delivering her services with utmost sincerity and there was not even a whisper of any complaint against the claimant. Despite the above said fact, the claimant had been cheated and harassed by the management at Lucknow by the respondent company by reallocating her work of a different field altogether in the Lucknow Office of the respondent company.

It has been further pleaded that same was done maliciously without adhering to the guidelines by the respondent company as well as without sending a notice to the claimant on the prescribed format which is against the provisions of Industrial Dispute Act 1947. The management of the respondent company forged the appointment letter and replaced the same with the original one.

Claimant had been sent offer letter from a 3rd party IKYA Human Capital Solution dated 31.12.2019 for job offer and the same was acknowledged by the respondent company in subsequent emails that were sent to the claimant clearly shows that the claimant personal information was shared without her consent with a third party so as to undue influence and pressurize the claimant in quitting respondent company.

Respondent company gave claimant an undue and conditional offer of either joining the said third party company or joining such other job profile of the respondent company of which the claimant does not have any experience of, whatsoever.

Accordingly it has been submitted on behalf of claimant in the claim statement that the said act by the officials of respondent company was done solely to force the claimant into termination as a changed job profile wherein the claimant had never any experience would any how have led to her termination.

Further it has been pleaded in the claim statement the services of claimant was terminated without prior information/notice, without giving any opportunity of hearing, without adhering to the principles of natural justice and also without any valid proof.

And claimant was deprived of her salary from January 2021 till the date of her termination i.e. 2.3.2021, despite the fact that the case was pending adjudication and was sub-judice before the conciliation officer. Thus the action on the part of respondent is violation of Section 33(1) and 33(2) of the Industrial Disputes Act 1947.

In view of above said factual background the claimant prayed for the following as main reliefs:-

> "1. Issue a order or direction to the respondent company to revoke the termination order dated 2.3.2021 and reinstate the claimant in the service on the same post.
>
> 2. Issue a order to the respondent company to pay the salary from January to till the reinstatement of the claimant as well as implement 05 pending promotion and grade pay."

CASE OF RESPONDENT

Respondent in the written statement has pleaded as under:-

1. That Axis Securities Limited (hereinafter to be referred as the Company") is a Company incorporated under the Companies Act having its registered office at Axis House, Wadia International Centre, PB Marg, Worli, Mumbai 400025 A, Agastya and its Corporate office currently at Unit 002 A, Building Corporate Park-Piramal Realty, Kamani Junction, Kurla West, Mumbai 400070 and engaged in the business of brokerage and trading services in equities, derivatives, commodities, mutual funds, IPOs, and fixed income products and other incidental financial services.

2. That the Complainant was appointed as Senior Executive in the customer care division of the Respondent Company w.e.f. 21.10.2011 vide appointment letter dated 03.11.2011 at a monthly salary of Rs. 10,652/- per month. Her designation at the time of raising the dispute in January 2020 was "Officer" and monthly Salary was "Rs. 16,621/-". As such the employee concerned is not covered under the definition of "workman" as defined u/s. 2(s) of the

Industrial Disputes Act, 1947 nor the dispute raised by her qualify as an "industrial dispute" as defined u/s. 2(k) of the said Act.

3. That in the appointment letter of the Complainant dated 03.11.2011, it was categorically mentioned that the Complainant will perform all such duties that may be assigned to her by the Company and the Company reserves it's right to change it at its discretion.

4. Further, in the appointment letter dated 03.11.2011, of the Complainant, it was also mentioned that if the Complainant concerned is on unauthorized leave for more than 7 days without any intimation, then her services will be terminated.

5. That it is submitted that the Complainant concerned has created a false narrative involving series of unfounded allegations to mislead by presenting false and frivolous facts and circumstances of the present case. The true and correct facts pertaining to the present case are as under:-

(i) The Complainant was appointed by the Respondent Company (Opposite Party No. 4) in 2011 in its Retail Assets distribution business Vertical/ Product line, initially in the CPA- Customer Care Department and later on the Complainant's request since 24th December 2014, she was transferred to "Branch operations" at Lucknow branch of the Company. Under the said Business vertical, the company, Axis Securities Ltd. was a distributor for Retail asset products of Axis Bank Ltd. pursuant to an Arms Length relationship as mandated under Companies Law between two separate legal entities having Parent subsidiary/ Group relationship. That she was always under the employment of the Respondent Company in the role of Branch operations and same was also mentioned in her Form 16 and salary slips. Any other claims by the complainant of being in "HR Operations" are false and fictitious and not supported with any evidence. Due to discontinuation of Retail Asset Business of the Company in April, 2019, the Company, post informing the Complainant well in advance, tried to arrange alternative employment for her in month of December, 2019 with same terms and condition of employment. Since it was optional for the Employee Concerned hence in view of her unwillingness to take up the alternative employment, the Complainant Concerned was placed at Company's Broking Branch at Lucknow on 19.02.2020 at the same designation & grade and in the similar work profile of Branch Operations whereby status quo with regard to her designation, work profile, location, salary etc. were maintained. Thus, it is submitted herein the fact that there was no change in the employment status of the Complainant nor was there any change in terms and condition of her employment.

(ii) Despite the above the Complainant with an ulterior motive to secure a job at a much higher grade (from Officer grade in Axis Securities Ltd to Sr. Manager in Axis Bank) in the Company's parent bank viz., Axis Bank Limited, not only defied all Respondent Company orders but also dragged Axis Bank and its senior officials in her defamation and maligning campaign.

iii) Though the Complainant has not discharged her duties since January, 2020 and spent most of her time in targeting the company and its officials with unwarranted harassment and false allegations, the Company has not only paid her full salary during the period but also paid her lucrative variable pay / bonus for FY 2019-20.

(iv) During the conciliation proceeding held before the Regional Labour Commissioner, Lucknow on 03.12.2020, the Complainant Concerned was advised by the said Commissioner to report to the Respondent Company's Lucknow branch office from 07.12.2020. It was also informed to the Complainant that if she is not satisfied till the next hearing scheduled after a month, with the work assigned to her, she will inform the Commissioner and the management of the Respondent Company of the reason.

(v) However, the Complainant did not report to her duties at the Lucknow branch office of the Company since 07.12.2020 till the date of termination i.e. 02.03.2021.

(vi) The Respondent Company arranged a Laptop, workstation etc. for the Complainant Concerned to facilitate her in performing her role. However, the Complainant chose not to report to her duties without intimating the Respondentcompany of any substantial reason. Hence, we bring to your kind attention that the Complainant Concerned has defied the directives of the office of the Regional Labour Commissioner. Lucknowand has thus not co-operated in complying with the conciliation process.

(vii) in this regard the Respondent Company has sent email communications dated 06.12.2020 and 13.01.2021 urging the Complainant Concerned to report to her duty and also assured her that her adaptation into the current role (similar to her previous role) would be facilitated in a phased manner with requisite training and support. The Respondent Company is engaged in Government declared essential services, hence its branches operate on a roaster (weekly office attendance plan) and the same was to be followed for Complainant's defined role as well.

(viii) However, the Complainant Concerned chose not to visit the Lucknow branch office of the Respondent Company, even to collect the Laptop, for the reasons best known to her. It may be noted that till 07.12.2020

the Complainant Concerned had been regularizing her attendance (without performing any assigned work) even without the laptop and dongle but discontinued marking her attendance after 07.12.2020.

(ix) The Complainant Concerned therefore defied all attempts made by the Respondent Company to urge her to attend it's Lucknow branch office and report to work to discharge her assigned duties. Complainant's unauthorized absenteeism since more than 2 months clearly indicated that the Complainant had no intention to assume her assigned role and indulged in raising frivolous and imaginary industrial dispute of re-designation with a malicious intention to fulfill her illicit ambition to secure job in the parent bank of the Respondent Company at a higher grade.

In written statement it has also been pleaded that without prejudice to the fact that the Complainant Concerned does not qualify as a "workman" as defined under the Industrial Disputes Act, 1947, it is also submitted that the dispute regarding "re-designation" as referred vide reference order dated 15.02.2021 by the Central Govt. on the instance of individual worker, cannot partake the character of "industrial dispute" for want of espousal by Trade Union as envisaged u/s. 2A, and that for want of espousal by Trade Union as envisaged u/s. 2A, cognizance of industrial dispute pertaining to redesigning the job description of the employee concerned is not legal and reference of the industrial dispute is bad in law.

On behalf of respondent in its written statement a plea was taken that the main issue involved affecting the jurisdiction of Hon'ble Industrial Tribunal is whether:

(a) employee concerned is covered under the definition of workman or not; and

(b) dispute regarding re-designation of job description raised by individual employee can partake the character of industrial dispute.

Accordingly prayer has been made in the written statement that the above said facts be adjudicated as preliminary issue before going into merits of the case that Government Of India has no jurisdiction to refer a dispute:

(a) of an employee who is not covered under the definition of workman; and

(b) other than discharge, dismissal, retrenchment or termination when not raised by a Trade Union.

So the reference is bad in law and liable to be dismissed.

After filing of claim petition & written statement, Smt Renu Sharma filed a Writ Petition having Petition *227 No.1174 of 2022 (Renu Sharma Versus The Presiding Officer, Central Government Industrial Tribunal & others)* before the Hon'ble High Court, Lucknow Bench, Lucknow disposed of by an order dated 29.4.2022, reproduced below:-

"*(1) Heard the learned counsel for the parties and perused the record.*

(2) This petition has been filed by the petitioner praying for a direction to be issued to the Respondent no.1-The Presiding Officer, Central Government Industrial Tribunal/Labour Court, Kendriya Bhawan, Lucknow, to decide the complaint filed under Section 33-A in I.D. No.28 of 2021 [Renu Sharma Vs. Axis Bank] expeditiously.

(3) It has been submitted by the learned counsel for the petitioner that the dispute arose between the petitioner and the private respondent for which a reference was made by the Central Government on 15.02.2021 to the CGIT-Cum-Labour Court with a direction to give its Award within a period of three months. It related to the action of the private respondent to re-designate the job description of the petitioner and whether such action was illegal and unjustified in the eye of law. After such reference was made and during the pendency of the I.D. No.28 of 2021 the private respondents have terminated the service of the petitioner in violation of provisions of the Industrial Disputes Act and therefore, an application under Section 33-A has been filed by the petitioner in I.D. No.28 of 2021 on 26.04.2021 which has not yet been decided due to delaying tactics adopted by the private respondents.

***(4) This petition is finally disposed of with a direction to the Opposite party no.1 to decide the application o the petitioner filed under Section 33-A of the Industrial Disputes Act at the earliest either on the next date fixed or within three months thereafter*.**"

Thereafter on 15.07.2022, claimant moved an application titled as *"APPLICATON FOR TAKING ON RECORD THE REPLICATION WRITTEN STATEMENT OF OPPOSITE PARTY NO.4, PROVIDED BY SECRETARY CGIT LUCKNOW DATED 24.06.2022"* praying therein :-

In light of the averments made hereinabove, it is hereby prayed that the aforesaid judgment and order dated 29.04.2022 be taken on record, and the same is complied with in its true letter and spirit, thereby deciding the complaint under Section 33-A on the next date fixed, i.e. on 08.06.2022. Hence the said order was not comply by Central Government Industrial Tribunal/Labour Court on 8.06.2022 & On 24.06.2022. Thereby deciding the complaint under Section 33-A on the next date fixed, i.e. on 01.07.2022 Itself.

After passing of order/judgment dated 29.04.2022, by the Hon'ble High Court, claimant moved application dated 26.04.2021, along with the same, Complaint u/s 33-A of the Industrial Dispute Act, 1947, was annexed as Annexure and a prayer has been made the matter in respect to 33-A of the Act, may kindly be decided in terms of judgement & order passed by the Hon'ble High Court.

More-over in brief the grounds taken by claimant in support of disposal of application u/s 33-A of the Act, are as under:-

a) Because its complete violation of section 33(1) & 33(2) of the Industrial Dispute act 1947, where the condition of service was changed during the pendency of the case without any approval from adhered authority. Hence the given termination should be revoke

b) In the case of CONTAINER CORPORATION OF INDIA LTD. V/s SANJEEV KUMAR it's clearly stated that-

> ***"For the purposes of Section 33A all that CGIT had to determine was whether on the date of the removal of the workman, an industrial dispute with which the workman was concerned was pending before the CGIT. If that question was answered in the affirmative, then the consequences of the failure of the employer, CCIL, to comply with the mandatory requirement of the proviso to Section 33(2)(b) ID Act had to necessarily follow"***

In accordance to the above stated lines, it is pertinent that during the pendency of case, no Conditions shall change which is related to the issue.

c) It clearly shows the bias action of the industry towards workmen, just because the workmen appeared for dispute resolution for her rights to the concerned authority, hence Industry maliciously terminated her for the same in the spur of anger/envy.

d) Principle of Natural Justice has not been adhered to, that is in other words no opportunity of any oral hearing nor any opportunity to present was given to the workmen before passing of the said termination order by the industry.

e) Neither any procedure was followed by the company by giving any proper show cause notice for the termination to the workmen and nor any other proper direct information given.

f) Because it is needless to say that principles of Natural Justice are the pillars upon which the basis of justice is based. Which needs to be compulsory followed by not only authorities which under categories of states but also by private industries.

On behalf of respondent an objection was filed to application moved by claimant u/s 33-A of the Industrial Dispute Act, the relevant paragraphs are quoted herein below:-

> *4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.*
>
> *5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a) labour Court, Tribunal or National Tribunal under the proviso to sub section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application), such order in relation thereto as it deems fit:] Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit: Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub section had expired without such proceedings being completed.]*
>
> *8). That from the perusal of the Section 33 it is evident that it is applicable when pendency of industrial dispute is before conciliation board, Labour Court, Tribunal, National Tribunal or Arbitrator.*
>
> *9). That from the subject matter of the reference order it is evident that the matter referred relates with alleged resignation of Renu Sharma, who is a individual person as such the dispute is an individual dispute as the same has not been affect the entire industrial atmosphere of the industry. Further, the same has not been espoused by any Union or Federation or body of the workman. Thus, the individual dispute of Renu Sharma does not transform in industrial Dispute.*
>
> *10). That since, no industrial dispute is pending before this Hon'ble Tribunal. Therefore, instant application of Renu Sharma is not maintainable under Section 33 A of the Industrial Disputes Act, 1947 and the application is liable to be dismissed outrightly.*

In compliance of the judgment passed by the Hon'ble High Court, this Tribunal considered application u/s 33A of the Act, moved by claimant and passed an award (interim award) dated 05.08.2022 which is as follows:-

"***1. The present award arises out of complaint filed by the workman-lady Smt. Renu Sharma W-10, under Section 33A of the Industrial Disputes Act 1947 for alleged contravention of the provisions contained in the Section 33 of the Industrial Disputes Act 1947 by the opposite parties.***

2. The case of the complainant, Renu Sharma, in brief, is that she had been appointed through offer/appointment letter dated 03.11.2011 in Retail Sales Vertical & Delivering in Branch of the opposite parties. It has been alleged by the workman-lady that in order to harass the workman, the Company reallocated her work to a different field altogether in Lucknow office of the opposite parties, without adhering to the guidelines by the respondent Company as well as without sending a notice to the workman-lady in the prescribed format, in violation to the provisions of the Industrial Disputes Act, 1947. The workman-lady has also alleged that she had been given job offer by a third party i.e. IKYA Human Capital Solution at the instance of the opposite party on 31.12.2019 and the workman-lady was given a conditional offer either to join the said third party Company or joining such other job profile as the management of the opposite party was offering. It has further been alleged by the workman that all her requests in this regard were of no use and she was terminated w.e.f. 02.03.2021 without any prior notice or opportunity of hearing in violation to the principles of natural justice and provisions contained in Section 33 (1) and 33(2) of the Act. The complainant has alleged that she was not paid any salary from January, 2021 despite the fact that the case was pending adjudication and was sub-judice before the conciliation officer. Accordingly, the complainant has prayed that respondents may be directed to revoke the termination of the complainant and she may be reinstated with consequential benefits, including back wages.

3. The management has filed its objection dated 15.07.2022; wherein it has vehemently opposed the submissions of the workman, it has submitted that the jurisdiction of the Industrial Tribunal stands confined to the reference, referred to it It has also been only and it cannot travel beyond the schedule of reference. submitted by the management that the workman has sought relief for revocation of her termination dated 02.03.2021 along-with reinstatement and payment of five pending promotions and Grade Pay, whereas no such dispute of termination has been referred for adjudication by the Central Government to this Tribunal, as such, the relief prayed by the workman-lady is beyond the scope of reference order. The management has also submitted that the workman has not filed any statement of claim with reference to the reference order; and accordingly reserves right to file its written statement in reply to the statement of claim filed by the workman. The management has categorically submitted that provisions of Section 33 attract only when there is any industrial dispute pending before Conciliation Board, Labour Court, Tribunal, National Tribunal or Arbitrator; but from the subject matter of the reference order it is evident that the matter referred relates with alleged re-designation of the workman-lady, Renu Sharma, who is an individual person, as such, the dispute is an individual dispute as the same has not affected the entire industrial atmosphere of the industry. The management has further submitted that the present industrial dispute has not been espoused by any Union or Federation or body of the workmen, therefore, the individual dispute of workman-lady, Renu Sharma does not transform into an industrial dispute; and since no industrial dispute is pending before this Tribunal therefore, instant application for workman is not maintainable under Section 33 A of the Industrial Disputes Act, 1947; and accordingly, the present application is liable to be dismissed being devoid of any merit.

4. Hon'ble Allabahad High Court, Lucknow Bench vide its order dated 09.04.2022 in Writ Petition Matters under Article 227 No. 1174 of 2022 has directed as follows:

> ***"(4) This petition is finally disposed of with a direction to the Opposite party no.1 to decide the application of the petitioner filed under Section 33-A of the Industrial Disputes Act at the earliest either on the next date fixed or within three months thereafter."***

5. Heard oral submissions of both the parties at length and perused material available on record.

6. The workman vehemently submitted that the management in utter contravention to the provisions of the Section 33 of the Act, has terminated her services vide termination order dated 02.03.2021 during pendency of the present industrial dispute before this Tribunal.

7. In rebuttal, the case of the management is raised question over validity of the reference order, with submission that the matter referred to this Tribunal relates to re-designation of the workman, therefore, the same could not be raised in individual capacity; rather the same should have been espoused by some Union or body of workmen; therefore, reference order under adjudication is not maintainable. As regards contravention of provisions of Section 33 of the Act, the management has come with a case that the violation of the provisions of Section 33 of the Act is attracted only when there is pendency of any dispute before Conciliation Board, Labour Court, Tribunal, National Tribunal or Arbitrator; but in

present case, there was no pendency before this Tribunal, since the reference order is not maintainable, being not raised by a Union, therefore, the present application u/s 33A of Act is not maintainable as well. The learned counsel for the management has also stated that the so called application, W-10, for alleged violation of section 33 of the Act is neither verified nor is supported with any affidavit, therefore, the same is not required to be considered by this Tribunal being defective and is liable to be rejected on technical grounds. He has relied upon:

(i) 2015 (144) FLR 830 Supreme Court: Oshiar Prasad & ors. Vs. Management of Sudamadih Coal Washery of M/s BCCL, Dhanbad.

(ii) 2013 LLR 1157: Supreme Court: Tata Iron & Steel Co. Ltd. vs. State of Jharkhand & Ors.

(iii) 2007 LLR 1233: Supreme Court: Karan Singh vs Executive Engineer, Hariyana State Marketing Board.

8. Section 33 A of the Industrial Disputes Act, 1947 provides provision for adjudication of a matter for alleged alteration in the service conditions of an employee by the employer during pendency of proceedings before a conciliation officer, Board, an arbitrator, Labour Court, Tribunal or National Tribunal. The said section of the Act is quoted hereunder:

33A. Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceeding- Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a conciliation officer, Board, an arbitrator, Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner, -

(a) to such conciliation officer or Board, and the conciliation officer or Board shall take such compliant into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such compliant, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the compliant as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly

A bare reading of above provision makes it crystal clear that where an employer contravenes the provisions of Section 33 i.e. alters the service condition in respect of any workman, which is prejudicial to him, during pendency of any proceedings before a conciliation officer, Board, an arbitrator, Labour Court, Tribunal or National Tribunal then such a workman, aggrieved by such contravention, may make a compliant in writing, to the forum before which the proceedings are pending. The provisions contained in Section 33 of the Act is as under:-

33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. pendency of any conciliation proceeding before a conciliation officer or a (1) During the Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall, -

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute,

Save with the express permission in writing of the authority before which the proceeding is pending.

On perusal of the above noted section, it becomes apparent that it relates to the change in the service condition of an employee by the employer during pendency of any proceedings before a conciliation officer, Board, an arbitrator, Labour, Court, Tribunal or National Tribunal and in the event of such contravention the aggrieved employee may make a complaint in writing to the authority before whom such proceedings are pending. The management has disputed the validity of the present complaint u/s 11-A on the ground that since the reference pertains to the re-designation of the workman, therefore, the same could not be raised in individual capacity; rather the same could be espoused by some Union or body of workmen; therefore, reference order is not maintainable and violation of the provisions of Section 33 of the Act is attracted only when there is pendency of any dispute before Conciliation Board, Labour Court, Tribunal, National Tribunal or Arbitrator; but in present case, there was no pendency before this Tribunal since the reference order is not maintainable, being not raised by a Union, therefore, the present

application u/s 33A of Act is not maintainable. In this regard it is noteworthy to mention here that though the original reference was not espoused by a Union, making it non- maintainable; but as soon as the services of the workman-lady were terminated the reference becomes maintainable; hence present application/compliant u/s 33-A of the Act is maintainable. From perusal of the termination letter dated 02.03.2021, it is evident that the complainant had been terminated w.e.f. 02.03.2021; and the reference was made to this Tribunal vide order No. L-12012/01/2021/-IR(B-I) dated 15.02.2021 by the Appropriate Government, therefore, there was clear violation of provisions contained in Section 33 of the Act.

***9. The allegations made by the complainant can be well appreciated at the time of final hearing of the industrial dispute and prayer made by her can be considered in light thereto while disposal of the industrial dispute referred to this Tribunal for adjudication. Also, there is no evidence available on record that the complainant is gainfully employed somewhere; accordingly, in view of the discussions made hereinabove, the complainant/workman Renu Sharma is entitled for monthly compensation of Rs. 3000/- (Rupees Three Thousand only) for alleged contravention of provisions of Section 33 of the Act, during pendency of the industrial dispute referred to this Tribunal for adjudication. In the event the applicant plays dilatory tactic for prolonging the proceeding, the opposite party management is at liberty to move application for cancellation of the interim maintenance*.**"

Thereafter respondent moved an application for Review of order dated 05.08.2022 (M-28), during the pendency of the same respondent challenged order dated 05.08.2022 (interim award) passed u/s 33-A of the Act, before the Hon'ble High Court in which an order was passed on 28.03.2023, quoted herein below:-

Hon'ble Rajnish Kumar, J.

Shri Vijay Pratap Singh, Advocate, who has filed Memo of appearance on behalf of respondents no.1 and 2 and Shri Sarvesh Kumar Dubey, Advocate, who has put in appearance through Caveat on behalf of respondent no.3, raised preliminary objection that this writ petition suffers from material concealment of fact because the petitioner M/s.Axis Securities Ltd. has already filed a Review Petition against the award dated 05.08.2022, which has been challenged in the present writ petition and the said Review Petition is still pending consideration before the Central Government Industrial Tribunal-cum-Labour Court, Lucknow, but it has not been disclosed in this petition.

Shri Kriti Kar Tirpathi, learned counsel for the petitioner on instructions from his co-counsel Shri Shri Kant Tripathi, who is standing with him, submits that inadvertently the said facts have not been disclosed in the writ petition, therefore he does not want to press the writ petition. To which there is objection by learned counsels appearing for the opposite parties.

In view of above, the writ petition is dismissed as not pressed.

By an order dated 13.04.2023, this Hon'ble Tribunal has dismissed the review application (M-28) moved by respondent, as not maintainable.

On 05.06.2023, this Hon'ble Tribunal passed an order quoted herein below:-

By an order dated 15.02.2021, following reference has been made:

"1 Whether the action of the management of Axis Securities Ltd., to re- design the job description of the employee Ms. Renu Sharma due to closing of retail asset product is illegal and unjustified in eye of law or not?

2 If yes, as to what relief the concerned workmen is entitled to."

In pursuance to the said reference, initially on 26.04.2021, a claim petition has been filed by Smt. Renu Sharma through its counsel, Sri Tanay Hazari, praying therein the following reliefs:

"1. Issue a order, or direction to the respondent company to revoke the termination order dated 02.03.2021 and reinstate the complainant in the service on the same post.

2. Issue a order to the respondent company to pay the salary from January to till the reinstation of the complainant as well as implement 5 pending promotion and grade pay

3. Issue any other suitable, order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

Sri K. K. Tripathi, learned counsel for respondent, raised a preliminary objection that the relief as claimed by the claimant in her claim petition is not in accordance with the term of reference.

Sri Goverdhan Lal Gupta, learned counsel for claimant prays for time to move an appropriate application for modification of reference.

Accordingly, time is granted to the claimant/workman to move an appropriate application before the authority concerned for modification of reference dated 5.02.2021, in view of the prayer as made by the applicant in filing in present claim petition specially the fact as argued on behalf of the claimant that the present reference has been referred to this Tribunal on 15.02.2021 and on 02.03.2021 her services were terminated, read with other prayers.

List on 28.07.2023.

Shri Shrikant Tripathi learned counsel for respondent on 28.07.2023, submitted before this Tribunal that order dated 05.06.2023 has not been complied with by claimant.

So after hearing claimant/Smt Renu Sharma assisted by Shri Sushil Sharma, an order was passed on 05.06.2023, relevant portion quoted herein below:-

Today when the matter was taken up for orders/hearing learned counsel for respondent Srikant Tripathi has informed the Tribunal that to order dated 05.06.2023, passed by this Hon'ble Tribunal, was not complied as the reference has not been modified.

Accordingly, a query has been put to the claimant, assisted by Sri Sushil Sharma that why necessary steps were not taken for modification of reference, in pursuance to order dated 05.06.2023.

At this stage the claimant submits that she will apply for copy of order dated 05.06.2023 today; and after getting the same appropriate steps may be taken by her for modification of reference dated 15.02.2021.

On 26.9.2023 this Tribunal after hearing the Learned Counsel for parties in regard to the maintainability of claim statement filed by the claimant wherein she prayed for setting aside the termination order dated 02.03.2021 and for reinstatement of services, taking into terms of reference i.e. Labour Court has no jurisdiction to travel beyond the terms of reference passed an award, the relevant portion is quoted herein below:-

"*Undoubtedly the Labour Court gets its jurisdiction from the reference and it is not like the Civil Court that any one Court, which entertains every suit. The Labour Court cannot go beyond the terms of reference nor it can travel beyond the pleadings and arrogate the power to raise issues which the parties to the reference are precluded to raise. The terms of reference determine the scope of the power and jurisdiction of the Labour Court, from case to case. Whether certain points of dispute have been referred to the Industrial Tribunal for adjudication it may, while dealing with the said points, deal with matters incidental thereto. However, such power cannot be exercised by the Court/Tribunal so as to enlarge materially the scope of reference itself for the reason that the Court/Tribunal derives its jurisdiction from the order of reference passed by the appropriate Government.*

In view of the above said position of law and the relief for setting aside/revoking the termination order dated 02.03.2021, is beyond the terms of reference, which cannot be adjudicated in present case as the same is not as per the term of the reference dated 15.02.2021 referred by the Appropriate Authority (quoted hereinabove) for adjudication of the present industrial dispute.

For foregoing reasons, the prayer as made by claimant, Smt. Renu Sharma, which is reproduced hereinabove, which is quoted once again:

> ***"1. Issue a order, or direction to the respondent company to revoke the termination order dated 02.03.2021 and reinstate the complainant in the service on the same post.***
>
> ***2. Issue a order to the respondent company to pay the salary from January to till the reinstating of the complainant as well as implement 5 pending promotion and grade pay***
>
> ***3. Issue any other suitable, order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."***

cannot be granted as the same is beyond the term of the reference dated 15.02.2021, referred by the Appropriate Government for adjudication to this Tribunal.

***Reference under adjudication is answered accordingly*."**

Aggrieved by the award dated 26.9.2023 passed by this Tribunal, the claimant challenged the same by way of filing *Writ-C No.9561 of 2024 (Renu Sharma Versus Presiding Officer, Central Govt. Industrial Tribunal & others) before the Hon'ble High Court and the Hon'ble High Court disposed of Writ-C No.9561 of 2024 vide judgment and order dated 12.11.2024*, the relevant portion of the same is quoted below:-

"*5. The counsel for the respondent on the other hand makes a statement and accepts that in the interim award dated 05.08.2022, there were typographical errors in the award in so far as it related to the description of the opposite party and the name of the respondent was wrongly transcribed . He further states that irrespective of the typographical error, his client i.e. respondent no. 3 would pay the amount to*

the petitioner in terms of the interim award amounting to Rs.96,000/- within a period of one month from today. He seriously disputes the other contention of the counsel for the petitioner and states that he may be granted time to file the counter affidavit. He further agitates that the petitioner is not a 'workmen' within the meaning of Industrial Disputes Act. He further argues that the issue with regard to the illegal termination as claimed by the petitioner has attained finality with the interim order dated 05.08.2022 and only parent reference order as extracted above made on 15.02.2021 was to be decided by the Tribunal, which has been rightly rejected by the Tribunal.

6. Considering the submissions made at the Bar, the impugned order dismisses the application filed by the petitioner in respect of the termination order dated 02.03.2021 solely on the ground that the same is beyond the reference order dated 15.02.2021. The said issue can be decided solely based upon the interpretation of the interim award as well as the impugned order as no factual issues are involved, I am not incline to grant any time to file counter affidavit as prayed by the counsel for the respondent. The impugned order has disposed of the complaint in respect of the termination order solely on the ground that it is beyond the initial reference order dated 15.02.2021 is erroneous on the face of it as to the interim award dated 05.08.2022, the Tribunal had held that prima facie the application under Section 33A of the Act was maintainable and it was further directed that all the allegation made by the complainant would be appreciated at the time of final hearing of the industrial dispute. In paragraph 9 of the interim award which is quoted herein below:

> ***"The allegations made by the complainant can be well appreciated at the time of final hearing of the industrial dispute and prayer made by her can be considered in light thereto while disposal of the industrial dispute referred to this Tribunal for adjudication. Also, there is no evidence available of record that the complainant is gainfully employed somewhere, accordingly, in view of the discussions made hereinabove, the complainant/workman Renu Sharma is entitled for monthly compensation of Rs. 3000/- (Rupees Three Thousand only) for alleged contravention of provisions of Section 33 of the Act, during pendency of the industrial dispute referred to this Tribunal for adjudication. In the event the applicant plays dilatory tactic for prolonging the proceeding, the opposite party management is at liberty to move application for cancellation of the interim maintenance."***

Once the Tribunal itself had adjudicated that the application under Section 33 A of the Act was maintainable, all the other issue had to be adjudicated by the Tribunal while passing the final award and the recourse taken by the Tribunal in refusing to interfere in the same is contrary to the interim award passed by the Tribunal itself. The error in the impugned order is apparent on the face and is in clear contradiction to the interim award dated 05.08.2022 as such, solely on that said ground, the impugned order cannot be sustained and is set aside. The matter is remanded to the CGIT to decide the matter afresh after taking into account, the interim award dated 05.08.2022 and particularly para no. 8 and 9 of the said interim award. The Tribunal shall also take into consideration the mandate of Section 2A and Section 33A of the Industrial Disputes Act while passing the fresh award as directed. The respondent no. 3 shall pay the amount as agreed and admitted before this Court within a period of one month to the petitioner.

7. This Court records its appreciation for the lawyers appearing on behalf of the petitioner through the Legal Service Authority in the painstaking manner in which the petition has been drafted and argued.

***8. The writ petition is disposed of in terms of the above.*"**

Further Axis Bank/respondent thereafter filed Civil Misc. Review Application Defective No.4 of 2025 (Axis Securities Ltd. & others Versus Mrs. Renu Sharma) which was disposed of vide order dated 8.1.2025 and the same is quoted below:-

" ***Order on I.A. No.1 of 2025***

1. The present review application has been filed along with an application for condonation of delay.

2. The cause shown in the delay condonation application is sufficient. The application is allowed. The delay in filing the review application is condoned.

Order on Main Review Application

3. Heard Sri Sunil Tripathi, learned Counsel for the review applicant.

4. Supplementary affidavit filed today is taken on record.

5. The contention of the Counsel for the review applicant is that the order of the tribunal which was impugned in Writ-C No.9561 of 2024, placed reliance on the judgment of the Hon'ble Supreme Court, while holding that relief claimed by the claimant was beyond the scope of reference order and thus, could not be pending. The contention of the Counsel for the applicant is that the law with regard to the order

being beyond the reference order is fairly well settled and thus, no error was committed by the tribunal in rejecting the application filed by the claimants. It is further argued that initial reference itself was not maintainable as in terms of the mandate of Section 2A of the Industrial Disputes Act, individual worker can raise only with regard to the discharge, dismissal, termination and retrenchment.

6. The Counsel for the review applicant also states that opportunity of filing written statement was not given as has also been recorded in the impugned judgment.

7. Along with the review application, no material has been placed, which is factual in nature to contend the allegation made by the applicant. This Court while deciding the review application had considered the mandate of Section 2A read with Section 33A of the Industrial Disputes Act while passing the impugned judgment. There is no material to suggest any material irregularities in deciding the judgment. Insofar as, this Court had taken into consideration the mandate of Section 33A of the Industrial Disputes Act.

***8. In view thereof, no good ground for review is made out. The review application is only an appeal in disguise, as such, cannot be entertained. The review application is rejected*.”**

Thereafter respondent approached the Hon’ble Supreme Court by filing Special Leave Petition (CIVIL) Dairy No(s).14567/2025 *[Arising out of judgment and order dated 8.1.2025 in CMRAD No.4/2025 filed a Special Leave Petition (Civil) Diary No.14567 of 2025 before the Hon’ble Supreme Court]* in which an order was passed on 02.05.2025, quoted herein below:-

“*2. Having considered the facts and circumstances of the case, we are not inclined to interfere in the order impugned.*

3. Accordingly the Special Leave Petition is dismissed.

4. However, the question of law is kept open.

5. Pending application (s), if any, shall stand disposed of.”

On 14.10.2025 on behalf of respondent, filed another written statement cum objections in which the following averments have been pleaded:-

- The claimant has been raising false, frivolous and baseless allegations on the management of the Company which has already been elaborated in preceding para-5 of this written statement. She has been absenting unauthorizedly and without sanction of leave and also failed to resume her duties inspite of instructions of the Regional Labour Commissioner, Lucknow.
- In the appointment letter dated 03.11.2011, it was categorically mentioned that the employee concerned will perform all such duties that may be assigned to her by the Company and the Company reserves it's right to change it at its discretion. However, it is relevant to highlight that due to discontinuation of Retail Asset Business of the Company in April, 2019, the Company, post informing the employee concerned well in advance, tried to arrange alternative employment for her in month of December, 2019 with same terms and condition of employment. Since it was optional for the Employee Concerned hence in view of her unwillingness to take up the alternative employment, the employee concerned was placed at Company's Broking Branch at Lucknow on 19.02.2020 at the same designation & grade and in the similar work profile of Branch Operations whereby status quo with regard to her designation, work profile, location, salary etc. were maintained. Thus, it is submitted herein the fact that there was no change in the employment status of the employee concerned nor was there any chance in terms and condition of her employment.
- The allegations raised by the claimant are completely false and concocted to create a false and fake narrative. It is categorical submission of the replying company that it is a law-abiding company which is very sensitive towards it's employees and never devolved any such alleged strategy to lessen it's number of employees.
- The attention of the Tribunal is brought towards the contents of reference order dated 15.02.2021 wherein the dispute referred to the Tribunal is regarding re-designation of the complainant. As such the dispute regarding termination of Mrs. Renu Sharma has not been referred for adjudication.
- The jurisdiction of Tribunal is confined to reference order only and the Tribunal cannot adjudicate a dispute which has not been specifically referred to it.
- The bar as envisaged U/s 33(1) & 33(2) would not cperate in the instant case as the instant dispute does not qualify as a valid industrial dispute due to non-espousal by union. The bar envisaged U/s 33(1) of the industrial dispute read with section 2A would operate only when the industrial dispute in question is a valid industrial dispute.
- The employee concerned has nowhere in her written statement declared that she is a workman or covered under the dentition of workman. Hence, for this reason as well the instant dispute does not qualify as industrial dispute and question of its existence does not arise.

On 12.11.2025 rejoinder/objections on behalf of claimant has been filed.

Further on behalf of respondent an affidavit dated 15.04.2026 filed, relevant paragraphs of the said affidavit are as under:-

12. That so far as the alleged application under Section 33-A is concerned, there is no application under Section 33-A of the Industrial Disputes Act, 1947 of Mrs. Renu Sharma. There exists only claim statement dated 26.04.2021, wherein Mrs. Renu Sharma has stated the alleged violation of Section 33(1) and 33(2) of the Industrial Disputes Act, 1947 and prayed for revoking of her termination dated 02.03.2021.

13. That in compliance of order of the Hon'ble High Court, the said application has Been been decided by the Hon'ble Tribunal vide its Award dated 05.08.2022. It is relevant to mention that Mrs. Renu Sharma has not challenged the said Award in any court. Thus, said Award has attained finality and no further action is required to be taken on this application.

14. That further, the alleged termination dated 02.03.2021 has already been challenged by Mrs. Renu Sharma by raising an industrial dispute dated 27.03.2021 under Section 2-A of the Industrial Disputes Act, 1947 and has obtained a certificate dated 19.07.2021 for approaching this Tribunal. Thus. she is estopped from challenging termination by invoking Section 33A of the Industrial Disputes Act, 1947. In case, she has any grievance, she can act in compliance of certificate issued by the Regional Labour Commissioner, Lucknow under Section 2A of the Act dated 19.07.2021.

15. That the management brings the aforesaid facts to the knowledge of the Hon'ble Tribunal for proper adjudication of the dispute relating to alleged violation of Section 33A of the dating to alleged termination of the employee. Further, the alleged application under Section 33A of the applicant is barred by the principle of res-judicata as for the same dispute of alleged termination w.e.f 02.03.2021, Mrs. Renu Sharma had already filed an application under Section 2-A of the Act before Regional labour Commissioner (Central), Lucknow on 27.03.2021, whereas the claim statement (which she is alleging as application under Section 33A) was filed on 26.04.2021.

16. That jurisdiction of Industrial Tribunal/ Labour Court is confined to reference order only. The instant dispute relates to industrial dispute of re-designation only whose validity if questionable for non-espousal by a trade union or body of workmen.

17. That for want of espousal of dispute of re-designation by a trade union or body of workmen, the instant dispute does not qualify as a valid industrial dispute and therefore by no stretch of imagination it can be concluded that there was a pending industrial dispute at the time of her termination.

Along with the said application dated 19.07.2021, as Annexure no.S3 has been filed by respondent, which reads as under:-

File No. 1.KO 7(1-17)/2021 ***Dated: 19.07.2021***

Certificate to be issued by the conciliation officer as provided under section 2 A of the Industrial Dispute Act, 1947

(TO WHOMSOEVER IT MAY CONCERN)

This is to certify that Mrs Renu Sharma, Lucknow filed an industrial dispute dated 27.03.2021 under section 2 A of Industiral Dispute (amendment) Act 2010 in the office of Assitant Labour Commissioner (Central) III, Mumbai. Subsequently, this application forwarded to the Regional Labour Commissioner (Central). Lucknow consequent upon her termination from the services by the employer.

The conciliation officer took up the matter in conciliation on the dates 16.07 2021 and 19.07.2021 The workman has stated that she is not interested to continue her case in conciliation proceeding and requested to issue certificate provided under section 2 A of Industrial Dispute Act, 1947. As on date, no settlement has been reached. Now applicant wants to discontinue to the present conciliation process and to take up the matter with the Central Govt Industrial Tribunal-cum Labdour Court diretly under sub-section (2) and (3) of section 2A of Industrial Dispute (amendment) Act 2010. The mandatory 45 days of filing her dispute before the conciliation officer as provided under section 2A (2) of the Industrial Dispute (Amendment) Act 2010 has been completed.

This certificate is being issued to her exclusively for the purpose of enabling her to approach the Central Govt Industrial Tribunal-cum-Labour Court for adjudication of the said dispute. The workman is advised to file her dispute before the concerned CGIT-cum-Labour Court.

(Om Prakash Singh)

Regional Labour Commissioner (Central), Lucknow

(signature of the conciliation officer with stamp)

On behalf of claimant counter affidavit/objection dated 20.04.2026 filed to affidavit dated 15.04.2026, filed by respondent, in which it has been pleaded as under:-

PRELIMINARY OBJECTIONS

1. That the affidavit filed on behalf of Respondent No. 4 by one Shri Sarvesh Trivedi, claiming himself to be Branch Manager, is wholly illegal, unauthorized, and without any locus standi. No authorization letter, power of attorney, or board resolution has been placed on record. Hence, the said affidavit is liable to be rejected and treated as null and void.

Reliance is placed on ***United Bank of India v. Naresh Kumar and State Bank of Travancore v. Kingston Computers India Pvt. Ltd***.

2. That the copies of the affidavit supplied on 16.04.2026 are largely illegible and unreadable, thereby violating principles of natural justice. Without prejudice, the issues raised therein have already been adjudicated by this Hon'ble Tribunal in the Interim Award dated 05.08.2022, wherein it was held that the Applicant is a workman and the Respondents have contravened Section 33 of the Industrial Disputes Act, 1947.

Reliance is placed on Management of ***Hotel Imperial v. Hotel Workers' Union.***

REPLY ON MERITS

3. That the contents of Respondents' affidavit are denied. The same are repetitive, devoid of new facts, and constitute abuse of process.

Reliance is placed on ***K.K. Modi v. K.N. Modi***.

4. That the Applicant has already placed on record all necessary pleadings including claim statement, rejoinder, affidavits, and replication. The Applicant has also obtained a certificate under Section 2-A dated 19.07.2021 issued by the statutory Authority, Regional Labour Commissioner (Central), Lucknow, thereby empowering said Applicant workman's dispute to be treated as an industrial dispute.

Supported by Workmen of ***Dimakuchi Tea Estate v. Management.***

5. That the Respondents are deliberately misusing the judicial process and wasting the valuable time of this Hon'ble Tribunal by filing unnecessary pleadings without any new material.

Reliance is placed on ***Salem Advocate Bar Association v. Union of India.***

6. That the Applicant workman has duly filed applications under Section 2-A and Section 33-A of the Industrial Disputes Act, 1947. The maintainability of Section 33-A is well settled. Annexure attached- A-1

Reliance is placed on ***Punjab National Bank Ltd. v. All India PNB NOTARY Employees' Federation***.

In view of the above said factual background in the present case may kindly be heard on merit.

DISPOSAL OF PRELIMINARY OBJECTION TAKEN BY RESPONDENT,

SUBMISSION ON BEHALF OF PARTIES ON MERIT

Shri Shrikant Tripathi learned counsel for respondent, raise a preliminary objection that the present reference dated 15.02.2021, referred by appropriate government as per clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), on the basis of Industrial Dispute raised by individual employee/Smt Renu Sharma/claimant, is not maintainable as per the law as laid down by the Hon'ble Supreme Court in the case of ***Central Provinces Transport Service Ltd, Nagpur vs. Raghunath Gopal Patwardhan, (1956) 2 SCC 499***.

Accordingly Shri Shrikant Tripathi learned counsel for respondent, submits that once the reference dated 15.02.2021, is without jurisdiction and not maintainable, on the basis of a dispute raised by an individual employee, liable to be dismissed, then all the consequential/subsequent proceedings initiated by claimant u/s 33-A of the Act etc, are void ab intio/without jurisdiction the same is cannot be adjudicated and the claimant is not entitled for any relief as claimed by her on the basis of application u/s 33-A of the Act.

Shri Shrikant Tripathi learned counsel for respondent, further submits that in the present case even otherwise the relief claimed by claimant as per the claim petition filed by her on 01.09.2021, cannot be granted as per the reference, quoted herein below:-

> "1. Issue a order or direction to the respondent company to revoke the termination order dated 2.3.2021 and reinstate the claimant in the service on the same post.
>
> 2. Issue a order to the respondent company to pay the salary from January to till the reinstatement of the claimant as well as implement 05 pending promotion and grade pay."

Because the above said relief as prayed by claimant, is outside the scope of reference coupled with the fact that aggrieved by the termination order dated 02.03.2021, claimant has raised a conciliation proceeding before the Regional labour Commissioner (Central), who had proceeded in the said reference for conciliation as per Section 12 of the Act, and when no amicable settlement arrived between the parties.

On 19.07.2021, Regional Labour Commissioner (Central) Lucknow, had issued a certificate u/s 2A of the Industrial Dispute Act, 1947, in order to enable claimant if so advise may challenge the termination order dated 02.03.2021, by filing a case u/s 2A of the Act, and inspite of the said facts and orders passed on the point in issue claimant has not adopted the said procedure i.e. filed a case u/s 2A of the Act, challenging a termination order.

Accordingly it is submitted by learned counsel for respondent that claimant/Smt Renu Sharma, who herself has raised Industrial Dispute aggrieved by the termination order dated 02.03.2021, on the basis of which the reference u/s 2(A) was made, however she has not filed a case u/s 2(A) of the Act, on one hand and on the other hand she has filed the present claim petition, with a prayer for revocation of the termination order dated 02.03.2021, and reinstating in service etc, cannot be granted in the present case as per the terms of the reference dated 15.02.2021.

REPLY ON BEHALF OF CLAIMANT TO THE PRELIMINARY OBJECTION

Shri R.K Khatri learned counsel for claimant submits that in the present case the claimant/Smt Renu Sharma raised the Industrial Dispute, accordingly a reference dated 15.02.2021, has been made to this Tribunal, as per the said reference I.D case no. 28/2021 registered before this Tribunal, in which claimant has filed claim statement before this Hon'ble Tribunal.

Shri R.K Khatri further submits that as during the pendency of reference dated 15.02.2021, the services of claimant was terminated by order dated 02.03.2021, so claimant/Smt Renu Shrama has moved an application u/s 33-A of the Act, and thereafter filed a writ petition no.1174 of 2022, before the Hon'ble High Court, Lucknow Bench, in which an order was passed by order dated 29.04.2022, and in pursuance to the said order this Hon'ble Tribunal has decided an application u/s 33-A of the Act, by an order dated 05.08.2022, against which respondent filed a review application as well as challenged the same before the Hon'ble High Court which was dismissed as not pressed by order dated 28.03.2023, and the review application moved by respondent were also dismissed.

He further submits taking into consideration to the said facts this Hon'ble tribunal has pass an award dated 26.09.2023, by which the ID case filed by claimant is dismissed as beyond the scope of reference the same was challenge by the claimant by filing Writ-C no.9561 of 2024, which was disposed of by the Hon'ble High Court vide order dated 12.11.2024, by which review filed by respondent were also dismissed by order dated 08.01.2025, the argument advance by learned counsel for respondent that the reference made by claimant in individual capacity is without jurisdiction has got no force and this Hon'ble Tribunal shall decide the matter as per the direction given by the Hon'ble High Court vide order dated 12.11.2024, in writ petition no.9561 of 2024, which as is follows:-

> ***I am not incline to grant any time to file counter affidavit as prayed by the counsel for the respondent. The impugned order has disposed of the complaint in respect of the termination order solely on the ground that it is beyond the initial reference order dated 15.02.2021 is erroneous on the face of it as to the interim award dated 05.08.2022, the Tribunal had held that prima facie the application under Section 33A of the Act was maintainable and it was further directed that all the allegation made by the complainant would be appreciated at the time of final hearing of the industrial dispute. In paragraph 9 of the interim award which is quoted herein below:***
>
> > ***"The allegations made by the complainant can be well appreciated at the time of final hearing of the industrial dispute and prayer made by her can be considered in light thereto while disposal of the industrial dispute referred to this Tribunal for adjudication. Also, there is no evidence available of record that the complainant is gainfully employed somewhere, accordingly, in view of the discussions made hereinabove, the complainant/workman Renu Sharma is entitled for monthly compensation of Rs. 3000/- (Rupees Three Thousand only) for alleged contravention of provisions of Section 33 of the Act, during pendency of the industrial dispute referred to this Tribunal for adjudication. In the event the applicant plays dilatory tactic for prolonging the proceeding, the opposite party management is at liberty to move application for cancellation of the interim maintenance."***
>
> ***Once the Tribunal itself had adjudicated that the application under Section 33 A of the Act was maintainable, all the other issue had to be adjudicated by the Tribunal while passing the final award and the recourse taken by the Tribunal in refusing to interfere in the same is contrary to the interim award passed by the Tribunal itself. The error in the impugned order is apparent on the face and is in clear contradiction to the interim award dated 05.08.2022 as such, solely on that said ground, the impugned order cannot be sustained and is set aside. The matter is remanded to the CGIT to decide the matter afresh after taking into account, the interim award dated 05.08.2022 and particularly para no. 8 and 9 of the said interim award. The Tribunal shall also take into consideration the mandate of Section 2A and Section***

33A of the Industrial Disputes Act while passing the fresh award as directed. The respondent no. 3 shall pay the amount as agreed and admitted before this Court within a period of one month to the petitioner.

Accordingly he request that the preliminary objection as taken by respondent shall be dismissed, and claim petition may be adjudicated and decided on merit.

FINDINGS & CONCLUSION

I have heard Shri R.K Khatri learned counsel for claimant, and Shri Shrikant Tripathi learned counsel for respondent, on the preliminary objection argued and gone through record.

Core question which to be decided in the present case is ***"Whether reference dated 15.02.2021, made by appropriate government as per clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), on the basis of dispute raised by the individual employee/Smt Renu Sharma is maintainable or not?"***

As per undisputed facts of the present case Smt Renu Sharma/claimant in an individual capacity raise an Industrial Dispute before the appropriate authority and on the basis of which a reference dated 15.02.2021, as per clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), has been made to this Hon'ble Tribunal, quoted herein below:-

"1 Whether the action of the management of Axis Securities Ltd. to re-design the job description of the employee Ms. Renu Sharma due to closing of retail asset product is illegal and unjustified in the eye of law or not?

2 If yes, to what relief the concerned workman is entitled?"

After the reference dated 15.02.2021, the services of Smt Renu Sharma/claimant was terminated by order dated 02.03.2021.

Aggrieved by the same she raised the conciliation proceeding before the Regional Labour Commissioner (Central) Lucknow, and in the said conciliation proceeding the same was registered and proceeding was initiated.

Thereafter in the said matter as per the provisions of Section 12 of the Act, the said authority has proceeded for the purpose of conciliation, however then no amicable settlement has taken place, the Regional Labour Commissioner (Central) Lucknow on 19.07.2021 issued a certificate u/s 2A of the Act, thereby authorizing Smt Renu Sharma/claimant to file a case before the Central Government Industrial Tribunal-cum-Labour Court for adjudication of dispute as per relevant provisions of Section 2A of the Act (in regard to termination of his service on 02.03.2021).

Thereafter claimant/Smt Renu Sharma has filed the present claim petition before this Hon'ble Tribunal on 01.09.2021, to which the written statement has been filed.

After filing of claim petition & written statement the writ petition no.1174 of 2022 filed by Smt Renu Sharma/claimant before the Hon'ble High Court, disposed of by on 29.04.2022, with the direction that this Tribunal to decide the application of petitioner filed u/s 33-A of the Act.

In pursuance to the said direction this Tribunal on 05.08.2022, decided application u/s 33-A of the Act (order quoted here an above).

Aggrieved by the said order respondent filed a review application as well as the same challenge by filing writ petition before the Hon'ble High Court dismissed as not pressed by order dated 28.03.2023, and the review application filed by respondent was also dismissed as not maintainable.

Thereafter this Tribunal decide the present ID case vide a award dated 26.09.2023, inter alia holding that the relief has claimed by claimant is beyond the scope of reference, challenged by claimant/Smt Renu Sharma by filing writ-C no. 9561 of 2024 is disposed of by order dated 12.11.2024, against which the review was filed, dismissed.

Further respondent/Ms Axis Securities Ltd, filed Special Leave Petition (CIVIL) Dairy No(s).14567/2025 *(Arising out of judgment and order dated 8.1.2025 in CMRAD No.4/2025 filed a Special Leave Petition (Civil) Diary No.14567 of 2025)* before the Hon'ble Supreme Court in which an order was passed on 02.05.2025, quoted herein below:-

"*2. Having considered the facts and circumstances of the case, we are not inclined to interfere in the order impugned.*

3. Accordingly the Special Leave Petition is dismissed.

4. However, the question of law is kept open.

5. Pending application (s), if any, shall stand disposed of."

Thus in view of the order passed by the Hon'ble Supreme Court in Special Leave Petition dated 08.01.2025, ***question of law is kept open,*** so the preliminary objection taken by respondent that reference cannot be referred by appropriate government as the same raised by claimant/Smt Renu Sharma in individual capacity, as such the present Industrial Dispute filed by claimant is not maintainable under law, has to be decided on merit.

On the point in issue the Hon'ble Supreme Court in the case of ***Central Provinces Transport Service Ltd, Nagpur vs. Raghunath Gopal Patwardhan, (1956) 2 SCC 499***, relevant portion quoted herein below:-

> *11. The question whether a dispute by an individual workman would be an industrial dispute as defined in Section 2(k) of Act 14 of 1947, has evoked considerable conflict of opinion both in the High Courts and in Industrial Tribunals, and three different views have been expressed thereon:*
>
> *11.1. A dispute which concerns only the rights of individual workers, cannot be held to be an industrial dispute. That was the opinion expressed in Kandan Textile Ltd. v. Industrial Tribunal, 1949 SCC OnLine Mad 212. There, Rajamannar, C.J. observed that though the language of the definition in Section 2(k) was wide enough to include such a dispute, the provisions of Section 18 suggested that something more than an individual dispute between a worker and the employer was meant by an industrial dispute. The other learned Judge, Mack, J., was more emphatic in his opinion, and observed that the Act was "never intended to provide a machinery for redress by a dismissed workman". It became, however, unnecessary to decide the point, as the Court came to the conclusion that the reference itself was bad for the reason that there was no material on which the Government could be satisfied that there was a dispute. The views expressed in Kandan Textile Lid. v. Industrial Tribunal, 1949 SCC OnLine Mad 212, were approved in United Commercial Bank Ltd. v. Commr. of Labour, 1950 SCC OnLine Mad 305, but here again, the observations were obiter, as the point for decision was whether a right of appeal conferred by Section 41 of the Madras Shop and Establishments Act 36 of 1947 was taken away by implication by Act 14 of 1947. The question, however, arose directly for decision in J. Chowdhury v. M.C. Banerjee, 1951 SCC OnLine Cal 161, in which the order of the Government referring the dispute of a dismissed employee to the adjudication of a Tribunal was attacked as incompetent, and it was held by Mitter, J., following the observations in Kandan Textile Ltd. v. Industrial Tribunal, 1949 SCC OnLine Mad 212, that the dispute in question was not an industrial dispute, and that the reference was, in consequence, bad.*
>
> *11.2. A dispute between an employer and a single employee can be an industrial dispute as defined in Section 2(k). That was the decision in Newspapers Lid. v. State Industrial Tribunals, 1954 SCC OnLine All 69. In that case, a reference of a dispute by a dismissed employee and the award of the Tribunal passed on that reference were attacked as bad on the ground that the dispute in question was not an industrial dispute within Section 2(k) of Act 14 of 1947, and it was held by Bhargava, J. that an industrial dispute could come into existence even if the parties thereto were only the employer and a single employee and that the reference and the award were, in consequence, valid. A similar decision was given by a Full Bench of the Labour Appellate Tribunal in Swadeshi Cotton Mills Co. Ltd. v. Workmen, (1956) 2 LLJ 89.*
>
> *11.3. A dispute between an employer and a single employee cannot per se be an industrial dispute, but it may become one if it is taken up by the Union or a number of workmen. That was held by Bose, J. in Bilash Chandra Mitra v. Balmer Lawrie & Co. Ltd, 1952 SCC OnLine Cal 186, by Ramaswami and Sarjoo Prasad, JJ. in New India Assurance Co. v. Central Government Industrial Tribunals, 1953 SCC OnLine Pat 33, and by Balakrishna Ayyar, J. in Lakshmi Talkies v. Munuswami, 1955 SCC OnLine Mad 307, and by the Industrial Tribunals in Gordon Woodroffe & Co. (Madras) Ltd. v. Appa Rao (M), (1955) 2 LLJ 541, and Lynus & Co. v. Hemanta Kumar Samantall, (1956) 2 LLJ 89.*

Further the Hon'ble the Apex Court after taking into consideration the Section 10(1) & 2(k) of the Industrial Dispute Act in the case of ***Dharampal Prem Chand (Saughandi) Versus Dharmpal Premchand (Saughandhi) reported in AIR 1966SC 182*** held as under:-

> *7. In support of its conclusion, the Tribunal has relied upon the decision of this Court in Bombay Union of Journalists v. The "Hindu" Bombay 1961-2 Lab LJ 436; (AIR 1963 SC 318 [LQ/SC/1961/324]). In that case, the services of one Salivateeswaran, who claimed that he was a full-time employee of the "Hindu", a daily newspaper published in Madras, were terminated and an industrial dispute was raised in respect of the said termination by the Bombay Union of Journalists. The contention raised by the employer was that the reference was invalid inasmuch as the dispute referred for a adjudication was an individual dispute and not an industrial dispute. This contention was accepted by the Tribunal; and that brought the dispute before this Court.*
>
> *8. In dealing with the effect of the decision pronounced by this Court in that case and particularly of certain observations made in the course of the judgment, it is necessary to bear in mind one finding of fact which had been recorded by the Tribunal and confirmed by this Court. It appears that in that case, the appellants strongly relied upon a resolution passed on April 17, 1948, by which it was alleged that the Bombay Union of Journalists had taken up the dispute of Salivateeswaran against the "Hindu" and had decided to demand*

reliefs for the "retrenched Journalist". Evidence was led to prove that such a resolution had been passed, but that evidence was discarded both by the Tribunal and this Court, and this Court definitely found that "the evidence tends to establish the plea raised by respondent No. 1 that the record of the alleged resolution was fabricated with a view to support the case of Salivatesswaran". In other words, in point of fact, there was no reliable evidence to show that the Bombay Union of Journalists had taken up the case of the retrenched employees Salivateeswaran. In view of this finding, it follows that the observations made by this Court in regard to the requirements of a valid reference under S. 10 (1) of the Act are in the nature of obiter observations.

9. It does appear that in dealing with the point of law as to the requirements of a valid reference, this Court observed that "the dispute, in the present case, being prima facie an individual dispute, in order that it may become an industrial dispute it had to be established that it had been taken up by the Union of employees of the "Hindu", Bombay, or by an appreciable number of employees of the "Hindu", Bombay". Similarly, it was also observed that the "principle that the persons who seek to support the cause of a workman must themselves be directly and substantially interested in the dispute, applied to the case before the Court"; and so one of the tests which this Court applied was whether the persons who supported the cause, were employees of the same employer; if they were not, it was though that they could not be regarded as interested in the dispute and as such, their support may not convert an individual dispute into an industrial dispute. That is why the support lent to the cause of Salivateeswaran by the Bombay Union of Journalists was found to be insufficient to convert the cause into an industrial dispute.

10. These observations, no doubt, prima facie lend support to the view which the Tribunal has accepted. It appears that the Bombay Union of Journalists had on its roll several working Journalists in other journals; but out of the three working journalists working with the "Hindu" at its Bombay office, two had become the members of the Bombay Union of Journalists, viz., Salivaeeswaran and Venkataswaran. Tiwari, the third working journalist working in the office of the "Hindu" Bombay, had not became a member of the said Union. In the Office of the "Hindu", there were seven other workmen, but they were working on the administrative side. In other words, out of the ten employees in the office of the "Hindu", seven were on the administrative side, and three on the journalism side and out of these three, two were members of the Union. It is in the light of these facts that this Court expressed the opinion that the Bombay Union of Journalists was not competent to raise the dispute, and even if it had raised it, the dispute could not have become an industrial dispute.

11. In our opinion, the observations on which the Tribunal has relied in support of its conclusion in the present case, should not be read as laying down any hard and fast rule to the matter. Take, for instance, the case of an employer who employs 20 workmen, and assume that these workmen have not formed any Union. If the employer illegally dismisses all the workmen employed by him, it cannot be suggested that the dispute about the dismissal of these employees would not become an industrial dispute because there is no Union to support them and the dismissed employees themselves cannot convert their individual dispute into an industrial dispute. In the present case, out of 45 employees 18 have been dismissed, and there is no evidence to show that these employees have a Union of their own. In such a case it would be difficult to hold that though the number of employees dismissed is 18, they cannot raise a dispute by themselves in a formal manner. Considerations which would be relevant in dealing with a dispute relating to an individual employees dismissal, would not be material in dealing with a case where a large number of employees have been dismissed on he same day. It is not disputed that a Union of workmen may validly raise a dispute as to dismissal even though it may be a Union of the minority of the workmen employed in any establishment. The majority Union, of course, can raise a dispute, and if a reference is made under S. 10 (1) of the Act at its instance, the reference is valid. Similarly, if there is no Union of workmen in any establishment, a group of employees can raise the dispute and the dispute then becomes an industrial dispute, though it may relate to the dismissal of an individual employee. This position is not disputed. If that is so, it is difficult, we think, to apply or extend the observations made in the case of the Bombay Union of Journalists. 1961-2 Lab LJ 436: (AIR 1963 SC 818) (supra) to the present case. In the present case, we are dealing with a reference made by the Delhi Administration in relation to the appellants contention that the dismissal of 18 employees is invalid, and not with a case of the dismissal of a single employee. Therefore, we do not think that the Tribunal was right in relying upon the decision in the case of the Bombay Union of Journalists, 1961-2 Lab LJ 436: (AIR 1963 SC 318 [LQ/SC/1961/324]) (supra) in support of its conclusion that the present reference was invalid.

12. It is well known that in dealing with industrial disputes, industrial adjudication is generally reluctant to lay down any hard and fast rule or adopt any test of general or universal application. The approach of industrial adjudication in dealing with industrial disputes has necessarily to be pragmatic, and the tests which it applies and the considerations on which it relies would vary from case to case and would not admit of any rigid or inflexible formula. There is no doubt that the limitations introduced by the decisions of this Court in interpreting the effect of the definition prescribed by S. 2 (k) of the Act were based on such

pragmatic considerations. It may also be conceded that if the dismissal of an individual employee working in an establishment in Delhi is taken up by the Union of workmen in a place away from Delhi, that would clearly not make the dispute an industrial dispute. Section 36 of the Act which deals with the representation of parties, incidentally suggests that the Union which can raise an individual dispute as to a dismissal validly, should be a Union of the same industry. Generally it is the Union of workmen working in the same establishment which has passed the impugned order of dismissal. But in a given case, it is conceivable that the workmen of an establishment have no Union of their own, and some or all of them join the Union of another establishment belonging to the same industry. In such a case, if the said Union takes up the cause of the workmen working in an establishment which has no Union of its own, it would be unreasonable to hold that the dispute does not become an industrial dispute because the Union which has sponsored it is not the Union exclusively of the workmen working in the establishment concerned. In every case where industrial adjudication has to decide whether a reference in regard to the dismissal of an industrial employee is validly made or not, it would always be necessary to enquire whether the Union which has sponsored the case can fairly claim a representative character in such a way that its support to the cause would make the dispute an industrial dispute. "Industry" has been defined by S. 2 (j) of the Act and it seems to us that in some cases, the Union of workmen working in one industry may be competent to raise a dispute about the wrongful dismissal of an employee engaged in an establishment belonging to the same industry where workmen in such an establishment have no Union of their own, and an appreciable number of such workmen had joined such other, Union before their dismissal. In fact, the object of trade Union movement is to encourage the formation of larger and bigger Unions on healthy and proper Trade Union lines and this object would be frustrated if industrial adjudication were to adopt the rigid rule that before any dispute about wrongful dismissal can be validly referred under S. 10 (1) of the Act, it should receive the support of the Union consisting exclusively of the workmen working in the establishment concerned.

13. Besides, there is another way in which this question can be considered. If 18 workmen are dismissed by an order passed on the same day, it would be unreasonable to hold that they themselves do not form a group of workmen which would be justified in supporting the cause of one another. In dealing with this question, we ought not to forget the basic theory on which limitation has been introduced by this Court on the denotation of the words "industrial dispute" as defined by S. 2 (k) of the Act. Therefore, we are satisfied that the Tribunal was in error in rejecting the reference on the preliminary ground that the dispute referred to it was an individual dispute and not an industrial dispute within the meaning of S. 2 (k).

More-over the Hon'ble Karnataka High Court at Bengaluru taking into consideration the judgment passed by Hon'ble the Apex Court in the case of ***Dharampal Prem Chand(supra)*** vide is judgment and order dated 18.1.2024 in *Writ Petition No. 7674/2023 (L-Res) (Management of M/s. Tata Advanced System Limited Versus The Secretary to Department of Labour, Government of Karnataka)* has held as under:-

"*8.The Co-ordinate Bench of this Court in the case of Prakash and ors. Vs. Superintending Engineer (Electrical), O and M Circle, Belgaum and Ors. has taken a view that the individual workman cannot raise a dispute with regard to absorption and regularization.*

9.The Delhi High Court in the case of Management of Hotel Samrat and Ors. Vs. Government of NCT and Ors. has taken a similar view that in order to be an industrial dispute, it has to satisfy the definition of Section 2(k) of the I.D. Act.

10. In light of the provisions enumerated and the decisions stated supra, the proposition is well settled an no more res integra that an individual workman can raise a dispute, it can only be for removal, termination or dismissal and if the workman wants to raise a dispute with regard to absorption and regularization, that can only be done by a union, which can raise a dispute on behalf of the workman."

In view of the above said legal position the reference dated 15.02.2021, referred by appropriate government as per clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), on the basis of dispute raised by an individual employee/Smt Renu Sharma to this Hon'ble Tribunal for adjudication is not maintainable.

Once the reference dated 15.02.2021, is void-ab-intio/not maintainable, so any subsequent/consequential proceedings arising out of the reference i.e. proceeding u/s 33-A of the Act, is also not maintainable/void-ab-intio, because in the case of ***State of Punjab vs. Davinder Pal Singh Bhullar, (2011) 14 SCC 770***, the Hon'ble Supreme Court held that, relevant paragraphs quoted herein below:-

It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "sublato fundamento cadit opus" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

*In **Badrinath v. State of Tamil Nadu & Ors., 2000(4) S.C.T. 832**; and **State of Kerala v. Puthenkavu N.S.S. Karayogam & Anr., (2001) 10 SCC 191**, it has been held that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.*

*And the Hon'ble Apex Court in the case of **Mangal Prasad Tamoli (dead) by Lrs. v. Narvadeshwar Mishra (dead) by Lrs. & Ors., (2005) 3 SCC 422**, the Hon'ble Supreme Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*

*And in **C. Albert Morris v. K. Chandrasekaran & Ors., 2005(4) RCR (Civil) 603: 2005(2) RCR (Rent) 498: (2006) 1 SCC 228**, the Hon'ble Supreme Court held that a right in law exists only and only when it has a lawful origin.*

In the case of ***Brijraj Nishad vs. State of UP, (2023) NCAHC 222957***, the Hon'ble Allahabad High Court held as under:-

12. It is a settled legal proposition that if an initial action is not in consonance with law, all subsequent and consequential proceedings would be vitiated. The Apex Court in the case of State of Punjab v. Davinder Pal Singh Bhullar (2011) 14 SCC 770, has held that if initial action itself is illegal, all subsequent actions emanating from that act are also a nullity.

13. In Badrinath v. State of Tamil Nadu & others AIR 2000 SC 3243 and State of Kerala v. Puthenkavu N.S.S. Karayogam & Anr (2001) 10 SCC 191, the Apex Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.

14. Similarly in Mangal Prasad Tamoli (dead) by Lrs. v. Narvadeshwar Mishra (dead) by Lrs. & Ors. (2005) 3 SCC 422, the Apex Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be hon est and have to be necessarily set aside.

15. On perusal of the Act and the Rules, the Court is of the clear view that an elected representative can be removed only and strictly in accordance with law and in this regard the law which provides for removal of an elected representative has to be strictly construed. In the present case, the Court finds that the show cause notice itself is bad as the same is vague and ambiguous. Since the show cause notice dated 14.02.2023 is nullity in the eye of law, therefore, it cannot be sustained, so its consequential proceedings, i.e. impugned order dated 07.08.2023 ceasing administrative and financial powers of the petitioner-Pradhan, stand automatically vitiated and is liable to be declared non est in view of law.

In the case of ***C/M Arya Kanya Pathshala Samiti vs. State of UP & Others, AIR 2024 ALLD. HC. 238***, relevant paragraph quoted herein below:-

*26. One of the contentions raised by learned counsel for the respondent no.4 is that since after passing of the impugned orders by the Assistant Registrar the fresh elections have been held therefore without challenging the same the present appeal is not maintainable. Suffice would it be to say that once the basic order goes the superstructure would automatically fall. Applying this well recognized legal principle on the present case, we find that the judgment and order in the instant case was passed by the learned Single Judge on 09.06.2022 and the elections have been held, on the basis of impugned orders challenged in writ petition, subsequent thereto, therefore if the impugned orders are quashed, the subsequent action will automatically fall. Our this view is fortified by the judgment of Hon'ble Supreme Court passed in the case of **State of Punjab v. Davinder Pal Singh Bhullar and Others (Supra).** The Hon'ble Supreme Court in the said case has held that it is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. The relevant paragraphs 107 to 110 are extracted below:-*

> *"107. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "sublato fundamento cadit opus" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.*
>
> *108. In **Badrinath v. State of Tamil Nadu & Ors., AIR 2000 SC 3243**, and **State of Kerala v. Puthenkavu N.S.S. Karayogam & Anr., (2001) 10 SCC 191**, this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.*
>
> *109. Similarly in **Mangal Prasad Tamoli (dead) by Lrs. v. Narvadeshwar Mishra (dead) by Lrs. & Ors., (2005) 3 SCC 422**, this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*

Further in the counter affidavit dated 20.04.2026, filed by claimant to the preliminary objection taken by respondent, in their affidavit dated 15.04.2026, in which claimant has mentioned the following judgments:-

a) ***United Bank of India v. Naresh Kumar and State Bank of Travancore v. Kingston Computers India Pvt. Ltd.***

b) ***Management of Hotel Imperial v. Hotel Workers' Union.***

c) ***K.K. Modi v. K.N. Modi.***

d) ***Dimakuchi Tea Estate v. Management.***

e) ***Salem Advocate Bar Association v. Union of India.***

f) ***Punjab National Bank Ltd. v. All India PNB NOTARY Employees' Federation.***

As neither the citation of the above said judgment was mentioned nor the copy of the said judgment was supplied to this Tribunal, so this Tribunal has asked Shri R.K Khatri learned counsel for claimant, on 08.05.2026 either give the citation of judgments or supply the copy.

Shri R.K Khatri learned counsel for claimant, submits that the said judgments has been mentioned in the affidavit dated 20.04.2026, and not supplied by claimant, so he is not aware of the citation, and unable to provide photocopy of the said judgment to this Tribunal, so this Tribunal is unable to consider that what is held in above said judgments that *"whether they are applicable in the present controversy or not?"*

Thus, in view of the discussions/finding given here an above, the preliminary objection taken by respondent that present reference dated 15.02.2021, referred by the appropriate government, raised by Smt Renu Sharma/claimant, individual is not maintainable, as per the law laid down in the case of ***Central Provinces Transport Service Ltd, Nagpur vs. Raghunath Gopal Patwardhan, (1956) 2 SCC 499,*** and ***Dharampal Prem Chand (Saughandi) Versus Dharmpal Premchand (Saughandhi) reported in AIR 1966SC 182,*** as such the present claim petition filed by claimant/Smt Renu Sharma, is not maintainable, the consequential proceeding i.e. Application u/s 33A of the Industrial Dispute Act, 1947, moved by claimant/Smt Renu Sharma is also not maintainable, both are liable to be dismissed.

AWARD

For the forgoing reasons, the reference dated 15.02.2021, made by claimant/Smt Renu Sharma, in individual capacity is not maintainable, and the consequential proceeding i.e. Application u/s 33A of the Industrial Dispute Act, 1947, moved by claimant/Smt Renu Sharma is also not maintainable, both are dismissed.

Lucknow JUSTICE ANIL KUMAR, Presiding officer

12th June, 2026.

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2010.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत हेवी इलेक्ट्रिकल लिमिटेड** के नियोक्ताओं और **भेल कर्मचारी और ठेका श्रमिक संयुक्त मोर्चा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट (संदर्भ संख्या **22/2025**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/112-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2010.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **22/2025)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bharat Heavy Electricals Limited** and **BHEL Karmchari** and **Theka Shramik Sanyukth Morcha** .

[No. L-42025/07/2026/112-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/22/2025

Present: P.K.Srivastava

H.J.S..(Retd)

The President

BHEL Karmchari and Theka Shramik

Sanyukth Morcha,

Bhopal (MP), 129,

Sikshak Congress (Vidya Nagar) Colony,

Bagmugliya, Bhopal (M.P.) - 462026 **Workman**

Versus

The Executive Director,

Bharat Heavy Electricals Limited,

Bhopal (M.P.) **Management**

AWARD

Passed on this 02nd day of February - 2026.

As per letter dated 19-12.2025 by the Deputy Chief Labour Commissioner (Central), Raipur, Government of India, Ministry of Labour, the reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number **RLC-8(8)2020 dt. 19-12.2024**. The dispute under reference related to :-

"Whether the 13 points demands of the Union is justified? If not, to which relief they are entitled to?"

After registering a case on the basis of the reference, notices were sent to the parties and served. Mr. Dharmendra Soni learned Counsel filed his Vakalatnama on behalf of Management. Workman side never appeared. None of the parties filed any Statement of Claim or Written Statement of Defense.

Since, the initial burden to prove its case is on the workman union side, in which it has failed to discharge. Hence, holding the claim of the workman union not proved, the reference stands answered against it.

Date: 02.02.2026

P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2011.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, **एमपी टेलीकॉम सर्कल बीएसएनएल** के प्रबंधन के संबंध में और **श्री सत्तार खान** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या 27/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/114-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2011.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **27/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **MP Telecom Circle BSNL** and **Sattar Khan,** workman.

[No. L-42025/07/2026/114-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR [M.P.]

NO. CGIT/LC/ R/27/2023

Present: P.K.Srivastava

H.J.S..(Retd)

Sattar Khan,

Sardar Ward Gali No. 2 Pipariya,

Hoshangabad,

(M.P.)-461775

Workman

Vs

The Chief General Manager,

MP Telecom Circle BSNL,

Hoshangabad Road Bhopal,

Narsinghpur (M.P.)-461775

Management

JUDGMENT

Passed on this 18th day of February, 2026

As per letter dated ***30/03/2023*** 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. J-5(31)/2022-RLC*** dt. ***30/03/2023***. The dispute under reference relates to:-

"Whether the action of the management of Chief General Manager, MP Telecom Circle, BSNL Bhopal in terminating the service of Shri Sattar Khan w.e.f. 20.07.1986 is legal, fair and justified? If not what relief the workman is entitled to and from which date?"

The case of the workman is that he was engaged as casual labour with the management company and was getting wages Rupees Nine Hundred per month. He worked continuously from 1985 to 1992 for more than 240 days in every year thus, acquired the status of regular employee, the management issued a scheme vide letter dated 18.11.1998 by which regular status was conferred to the casual labour who worked for more than 240 days in a year, he is entitled to be conferred regular status. In light of the said letter also, similarly situated employees filed a case before the Central Administrative Tribunal, which was decided after hearing. It was directed by the Central Administrative Tribunal that the employees who had worked for more than 240 days with the management will be reinstated in service and shall be deemed in continuous service. The workman is also entitled to parity in light of the said order of Central Administrative Tribunal but, the management did not grant him any permanent and regular status. He was advised to file petition u/s 33(C)(2) of the Act, which he filed in 2001 which was registered as case No. C/15/2001. This petition was filed through the Secretary of the Union and was decided by this Tribunal after hearing vide order dated 24.08.2021, with an observation that the petition u/s 33(C)(2) was not maintainable as such. Thereafter, he raised a dispute in this respect after failure of conciliation, reference was sent to this Tribunal for adjudication.

According to the workman, he was not paid any retrenchment, compensation or notice pay at the time of his disengagement, he was not conferred permanent and regular status though,which he was entitled to in light of the circular of the department issued in 1998 as referred to above. The management has thus acted arbitrarily in not granting the reliefs claimed. He has prayed for setting aside his retrenchment, he be held entitled to be reinstated in service with all back-wages and benefits, also be held entitled to permanent and regular status of employee.

The case of the department is mainly that the workman never worked for 240 days in any year, he was not engaged at any point of time. They are a public sector undertaking established in 2000. Before that, there was Department of Telecommunication. The workman was not a petitioner in the said petition No. 411/1990 filed before the Central Administrative Tribunal, Jabalpur which he has referred to. Hence, is not entitled to benefit of any order passed by the Central Administrative Tribunal, department has prayed that the reference be answered against the workman.

In evidence, the workman has filed his affidavit as his Examination-in-chief, he has been cross-examined by the department, he has filed and proved Ex-W/1 which is the statements, all with regard to the works he has said to be have done with the department. Management has filed affidavit of its witness S. K. Gupta, as his Examination-in-chief. He has been cross-examined by the workman side.

I have heard argument of Learned Counsel for workman Mr. Harry Bamoriya and Mr. S.K. Patel, Learned Counsel for department. I have gone through the record as well.

The initial burden to prove his case that he was engaged with the department and worked for 240 days or more in the year preceding the date of his termination, is on the workman.

Section 25-B of the Act, which defines '***continuous service***', is being reproduced as follows:-

"25-B. 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 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;

(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."

Pleadings of the parties on this issue have already been detailed earlier. The workman has reiterated his allegations on this point in his affidavit as his Examination-in-chief. He has filed and proved the statement issued by the Engineer of the Department, it goes to show that, within the period from July, 1985 to July, 1986, he worked for 253 days.

In his cross-examination, he has stated that his work was to lay telephone lines, dig pits and erecting poles. On the other hand, the management witness has denied the allegations in this respect and have stated in his affidavit that workman never worked for 240 days in any year. In his cross-examination, this witness states that muster roll was maintained in the department. Regarding Ex-W/1, he states that it is not issued by the department.

When, the initial burden that the workman worked for 240 days in a year has been discharged by him by way of his affidavit and documentary evidence, the onus shifts on the department to rebut it atleast by production of muster rolls which has not been produced. Hence, in light of above discussion, **the case and evidence of the workman on the point of his regular employment of 240 days in the year preceding the date of his termination is held more reliable and is held proved accordingly.**

Section 25-F & **25-G** of **the Act**, is being reproduced as follows:

25-F. 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.

25-G. 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.

It is further the case of workman that he was not paid any notice or compensation. The management witness also pleads ignorance on this point. Hence holding that, no notice pay or retrenchment compensation was paid to the workman, his **termination is held in violation of section 25-F & 25-G of the Act.**

As regards relief, it has been submitted from the side of workman that delay is due to wrong advise and ***secondly***, he is entitled to parity with petitioners who filed the case bearing case No. 411/1990 before the Central Administrative Tribunal. The said order of the Central Administrative Tribunal will be applicable to the petitioners only; the workman was at liberty to claim this parity before the Central Administrative Tribunal itself. He cannot claim parity before this Tribunal.

Keeping in view, the facts and circumstances of the case in hand, a lump sum compensation quantified Rs. 3 Lac/- (Three Lac Only) in lieu of all his claims will meet the ends of justice which the workman is held entitled to be paid by the department within 60 days from the date of publication of the Award, failing which interest @ 6% p.a. from the date of Award till payment.

In light of above discussion and findings, the reference is answered as follows.-

AWARD

"Holding the action of the management in terminating the service of Shri Sattar Khan w.e.f. 20.07.1986, illegal and unjustified, he is held entitled to a lump sum amount of Rs. 3 Lac/- (Three Lac Only) in lieu of all his claims, to be paid to him by the Department within 90 days from the date of Award, failing which interest @ 6% p.a. from the date of Award till payment, in lieu of all his claims."

No order as to cost.

Date: 18.02.2026 P.K.SRIVASTAVA, PRESIDING OFFICER

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2012.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **यूटिलिटी पावरटेक लिमिटेड** के नियोक्ताओं के संबंध में और **श्री राम नरेश विश्वकर्मा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद, केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या **31/2024**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/117-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2012.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **31/2024)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Utility Powertech Limited** and **Shri Ram Naresh Vishwakarma,** workman.

[No. L-42025/07/2026/117-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/31/2024

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Ram Naresh Vishwakarma,

S/o Lt. Shri Mahipat Lal Vishwakarma,

R/o N H-1, B – 285, NTPC Colony, Vindhyanagar,

Tehsil & Distt. – Singrauli (M.P.) - 486885

Workman

Versues

1. **The Director (HR),**

   Utility Powertech Limited, 'UPL House',

   W-24, Sector-11, Noida (UP) – 201301

2. **The Resident Manager,**

   Utility Powertech Limited (UPL),

   NH-1, NTPC Township,

   PO – Vindhyanagar, Distt. Singrauli (M.P.) - 486885

Management

JUDGMENT

Passed on this 03rd day of February, 2026

As per letter dated 08.04.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **24(16)/2024-IR** dt. 08.04.2024. The dispute under reference relates to:

"***Whether the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Ram Naresh Vishwakarma, Workman w.e.f. 30.09.2023 without following the provisions of the Industrial Disputes Act 1947 is legal and justified in the eye of law or not? If not, what relief the workman is entitled to?***"

Case of the workman is that, he was appointed by the Management of M/s Utility Powertech Limited on 09.01.2006 on the post of Supervisor. His appointment continued from year to year basis and was ultimately extended up to 31.12.2023. However, the Management issued him a letter on 31.08.2023 which mentioned that services of the workman were terminated from 30.09.2023 for reasons beyond control of Utility Powertech Limited. The said letter further stated that this letter will be treated as one month prior before closure as per terms and conditions of offer of engagement. His services were terminated from 30.09.2023 which is in violation of Section 25F of the Act which is unjust, illegal and arbitrary on the part of Management. Also, it is the case of the Workman that, before termination of his services, he had already moved before the conciliation officer and has raised a dispute which was pending. This action of Management is in violation of Section 33 of the Act. Also, the workman has prayed that setting aside his termination he be held entitled to be reinstated with back wages and benefits.

Case of the Management is mainly that, the Utility Powertech is a Non-Governmental Registered Company and is a joint venture with NTPC and Reliance Infrastructure, it is not falling under Central Government, and hence, the Central Government is not a appropriate Government under the Act and is not competent to refer the dispute for determination to this Tribunal. Also detailed that, the appointment of Workman was for specific period, he was not appointed on permanent job on permanent basis, his services were dispensed with a one month notice as per the terms and conditions of his appointment which he had accepted at the time of his appointment. The Management has requested that the reference be answered against the Workman.

The workman has filed photocopies of notice of Management dated 31.08.2023 terminating contractual engagement of the Workman, photocopy of reference, letter of appointment on contract dated 31.12.2022, his releasing order dated 31.10.2023 and 30.09.2023, service certificate, notice of Deputy Labour Commissioner dated 13.12.2023 which have been admitted by Management and are marked exhibits. The Workman has further field photocopies of other service contracts right from 01.02.2007 to 17.02.2022 which show that he has been appointed on contract on orally basis firstly in 2007 extending till 2023. But these documents have not been admitted by the Management. The workman has not cared to prove these documents. Management of Utility Powertech has filed affidavit of its witness Ajay Kumar Raghav as his examination in chief. None appear from the side of Workman to cross-examine the witness, hence opportunity was closed.

At argument stage, none appeared for the workman hence, argument of Learned Counsel for Management Mr. Neeraj Kewat was heard. I have gone through the record as well.

The reference itself is the issue for determination in the case in hand.

From the allegations in statement of claim and documents as mention above, it is established that the engagement of workman was on contract basis, extended from year to year. The terms and conditions of the contract are mention in Exhibit W-4, but the Clause – 9 of this document specifies that, the service contract can be terminated

at any time by either party by giving one month notice in writing and one month salary. Admitted case of the workman is that, he was given one month notice before termination of his service. This fact is corroborated by uncontroverted affidavit of the Management witness.

Hence, on the basis of above discussion it is established that, the engagement of the Workman was contractual; was prematurely terminated after one month notice as per terms and contract of appointment accepted by the parties. Hence, this termination is not a retrenchment under the Act and accordingly, the workman is held not entitled to benefit of Section 25F of the Act.

Accordingly, the reference is answered as follows.

AWARD

Holding the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Ram Naresh Vishwakarma, Workman w.e.f. 30.09.2023 is legal and justified in law. The workman is held entitled to no relief.

No order as to cost.

DATE:- 03.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 24 अगस्त, 2026

का.आ. 2013.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **यूटिलिटी पावरटेक लिमिटेड** के नियोक्ताओं के संबंध में और **श्री दीपक नामदेव** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या **32/2024**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/119-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 24th August, 2026

S.O. 2013.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref.No.**32/2024)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Utility Powertech Limited** and **Shri Deepak Namdeo** workman.

[No. L-42025/07/2026/119-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/32/2024

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Deepak Namdeo,

R/o TTS Colony NTPC Township,

Vindhyanagar Distt. Singrauli (MP) - 486886

Workman

Versues

1. **The Director (HR),**
   Utility Powertech Limited, 'UPL House',
   W-24, Sector-11, Noida (UP) – 201301
2. **The Resident Manager,**
   Utility Powertech Limited (UPL),
   NH-1, NTPC Township,
   PO – Vindhyanagar, Distt. Singrauli (M.P.) - 486885

Management

JUDGMENT

Passed on this 03rd day of February, 2026

As per letter dated 08.04.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **24(14)/2024-IR** dt. 08.04.2024. The dispute under reference relates to:

"***Whether the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Deepak Namdeo, Workman w.e.f. 30.09.2023 without following the provisions of the Industrial Disputes Act 1947 is legal and justified in the eye of law or not? If not, what relief the workman is entitled to?***"

Case of the Workman is his father was working with the NTPC and after his death during the employment, the applicant workman was appointed vide appointment order dated 28.12.2018. The appointment continued from year to year and ultimately, extended up to 31.12.2023. The workman was issued a letter by Management on 31.08.2023 by which he was given one month notice and his engagement was terminated w.e.f. 30.09.2023 for reasons which were beyond control of Utility Powertech Limited as mentioned in the letter. The letter also mention that it be treated as one month prior notice as per terms and conditions for termination of service. According to Workman, this action of Management is in violation of Section 25F of the Act. The Workman has prayed that setting-aside his termination, he be reinstated with back-wages and benefits.

Case of the Management is mainly that, the Utility Powertech is a non-governmental registered company and is a joint venture with NTPC and Reliance Infrastructure, it is not falling under Central Government, hence the Central Government is not a proper Government under the Act and is not competent to refer the dispute for determination to this Tribunal. Also detailed that, the appointment of Workman was for specific period, he was not appointed on permanent job on permanent basis and his services were dispensed with a one month notice as per the terms and conditions of his appointment which he had accepted at the time of his appointment. The Management has requested that the reference be answered against the Workman.

In evidence, the Workman side has filed photocopies of documents which are letter of Management of Utility Powertech dated 31.08.2023 dispensing with the services of the workman, photocopy of reference, order of this Tribunal in case A/02/2022, R.J. Sinha V.s. General Manager, SECL, appointment offer issued by M/s Utility Powertech on 20.01.2020, notice issued by the Deputy Labour Commissioner during conciliation period, letter dated 02.11.2023 releasing the workman on completion of service contract, which are Exhibit W-1 to W-7. The Workman has not filed any affidavit in support of his allegations.

Management of Utility Powertech has filed affidavit of its witness Ajay Kumar Raghav as his examination in chief. None appear from the side of Workman to cross-examine the witness, hence opportunity was closed.

At argument stage, none appear for workman; hence, argument of Learned Counsel for Management Mr. Neeraj Kewat was heard. I have gone through the record as well.

The reference itself is the issue for determination in the case in hand.

From the allegations in statement of claim and documents as mention above, it is established that the engagement of workman was on contract basis, extended from year to year. The terms and conditions of the contract are mention in Exhibit W-4, but the Clause – 9 of this document specifies that, the service contract can be terminated at any time by either party by giving one month notice in writing and one month salary. Admitted case of the workman is that, he was given one month notice before termination of his service. This fact is corroborated by uncontroverted affidavit of the Management witness.

Hence, on the basis of above discussion it is established that, the engagement of the Workman was contractual; it was prematurely terminated after one month notice as per terms and contract of appointment accepted by the parties. Hence, this termination is not a retrenchment under the Act and accordingly, the workman is held not entitled to benefit of Section 25F of the Act.

Accordingly, the reference is answered as follows.

AWARD

Holding the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Deepak Namdeo, Workman w.e.f. 30.09.2023 without following the provisions of the Industrial Disputes Act 1947 is legal and justified in law. The workman is held entitled to no relief.

No order as to cost.

DATE:- 03.02.2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2014.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **यूटिलिटी पावरटेक लिमिटेड** के नियोक्ताओं के संबंध में और **श्री महेंद्र कुमार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट (संदर्भ संख्या **33/2024**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/118-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2014.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **33/2024)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Utility Powertech Limited** and **Shri Mahendra Kumar Shukla,** workman.

[No. L-42025/07/2026/118-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/33/2024

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Mahendra Kumar Shukla,

R/o Ganga Bhawna Room No.11,

Vindhya Nagar Colony, Distt. Singrauli (M.P.) - 486885

Workman

Versues

1. **The Director (HR),**
   Utility Powertech Limited, 'UPL House',
   W-24, Sector-11, Noida (UP) – 201301
2. **The Resident Manager,**
   Utility Powertech Limited (UPL),
   NH-1, NTPC Township,
   PO – Vindhyanagar, Distt. Singrauli (M.P.) - 486885

Management

JUDGMENT

Passed on this 03rd day of February, 2026

As per letter dated 08.04.2024 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **24(15)/2024-IR** dt. 08.04.2024. The dispute under reference relates to:

"***Whether the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Mahendra Kumar Shukla, Workman w.e.f. 30.09.2023 without following the provisions of the Industrial Disputes Act 1947 is legal and justified in the eye of law or not? If not, what relief the workman is entitled to?***"

Case of the workman is mainly that, he was appointed by the Management of M/s Utility Powertech Limited on 02.02.2010 on the post of Supervisor. His appointment continued from year to year basis and was ultimately extended up to 31.12.2023. However, the Management issued him a letter on 31.08.2023 which mentions that services of the workman were terminated from 30.09.2023 for reasons beyond control of Utility Powertech Limited. The said letter further stated that this letter will be treated as one month prior before closure as per terms and

conditions of offer of engagement. His services were terminated from 30.09.2023 which is in violation of Section 25F of the Act which is unjust, illegal and arbitrary on the part of Management. Also, it is the case of the Workman that, before termination of his services, he had already moved before the conciliation officer and has raised a dispute which was pending. This action of Management is in violation of Section 33 of the Act. Also, the workman has prayed that setting aside his termination he be held entitled to be reinstated with back wages and benefits.

Case of the Management is mainly that, the Utility Powertech is a non-governmental registered company and is a joint venture with NTPC and Reliance Infrastructure, it is not falling under Central Government, and hence, the Central Government is not a proper Government under the Act and is not competent to refer the dispute for determination to this Tribunal. Also detailed that, the appointment of Workman was for specific period, he was not appointed on permanent job on permanent basis, his services were dispensed with a one month notice as per the terms and conditions of his appointment which he had accepted at the time of his appointment. The Management has requested that the reference be answered against the Workman.

The workman has filed photocopies of notice of Management dated 31.08.2023 terminating contractual engagement of the Workman, photocopy of reference, letter of appointment on contract dated 31.12.2022, his releasing order dated 31.10.2023 and 30.09.2023, service certificate, notice of Deputy Labour Commissioner dated 13.12.2023 which have been admitted by Management and are marked exhibits. The Workman has further field photocopies of other service contracts right from 01.02.2007 to 17.02.2022 which show that he has been appointed on contract on orally basis firstly in 2007 extending till 2023. But these documents have not been admitted by the Management. The workman has not cared to prove these documents. Management of Utility Powertech has filed affidavit of its witness Ajay Kumar Raghav as his examination in chief. None appear from the side of Workman to cross-examine the witness, hence opportunity was closed.

At argument stage, none appear for workman; hence, argument of Learned Counsel for Management Mr. Neeraj Kewat was heard. I have gone through the record as well.

The reference itself is the issue for determination in the case in hand.

From the allegations in statement of claim and documents as mention above, it is established that the engagement of workman was on contract basis, extended from year to year. The terms and conditions of the contract are mention in Exhibit W-4, but the Clause – 9 of this document specifies that, the service contract can be terminated at any time by either party by giving one month notice in writing and one month salary. Admitted case of the workman is that, he was given one month notice before termination of his service. This fact is corroborated by uncontroverted affidavit of the Management witness.

Hence, on the basis of above discussion it is established that, the engagement of the Workman was contractual; it was prematurely terminated after one month notice as per terms and contract of appointment accepted by the parties. Hence, this termination is not a retrenchment under the Act and accordingly, the workman is held not entitled to benefit of Section 25F of the Act.

Accordingly, the reference is answered as follows.

AWARD

Holding the action of management of Utility Powertech Limited (UPL) in terminating the services of Shri Mahendra Kumar Shukla, Workman w.e.f. 30.09.2023 is legal and justified in law. The workman is held entitled to no relief.

No order as to cost.

DATE:- 03.02.2026 P.K.SRIVASTAVA, Residing officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2015.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंद्रा गांधी राष्ट्रीय मानव संग्रहालय** के नियोक्ताओं के संबंध में और **श्री देवी लाल** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालया, जबलपुर पंचाट(संदर्भ संख्या **33/2023**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/113-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2015.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. 33/2023)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indra Gandhi Rashtriye Manav Sanghralay** and **Shri Devi Lal,** workman.

[No. L-42025/07/2026/113-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR [M.P.]

NO. CGIT/LC/R/33/2023

Present: P.K.Srivastava, H.J.S..(Retd)

Devi Lal @Deva,

H No. 42, Suraj Nagar, Sewaniya Gond,

Huzur Bhopal,

Bhopal (M.P.)- 462001

Workman

V/s

Indra Gandhi Rashtriye Manav Sanghralay,

Shyamla Hills, Bhopal,

Bhopal, Madhya Pradesh-462001

Management

JUDGMENT

Passed on this 16th day of February, 2026

As per letter dated ***31/03/2023*** by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification **No. RLC-8(38)/2022** dt. ***31/03/2023***. The dispute under reference relates to:

"Whether the action of the management of Indira Gandhi Rashtriya Manav Sangrahalaya Bhopal to terminate the services of Shri Devil Lal @ Deva is legal and justified? If not then what other benefits the workman is entitled to along with reinstatement?"

Case of the Workman, taken by him in his statement of claim, is mainly that, he was first appointed with the management on 01.03.2001 as daily wager on monthly salary of Rs. 12,096/- as a Gardner and worked continuously till 01.06.2020 with the management, his services were terminated orally on 01.06.2020. He worked continuously for 240 days and more in every year. Since, he was not given any notice pay or compensation at the time of termination of his service, this action of management is in violation of section 25-F and 25-G of the Act, hence is unjust, illegal and arbitrary.

He has prayed that holding the action of management in terminating his services against law, he be held entitled to be reinstated with back-wages and benefits.

Case of the management of Indira Gandhi Rashtirya Manav Sangrahlaya, Bhopal is mainly that they are an Institution under Ministry of Culture, Government of India, engaged for preservation and promotion of the Tribal art and culture. They are not involved in any commercial activities hence, neither are they 'industry' as defined under the Act nor is the applicant a 'workman' under the Act, hence the reference itself is not cognizable in the case in hand. It is further their case that the museum is spread over 200 acres of land and its maintenance is done by labour supplied by outsourcing agencies, the applicant was also provided by the outsourcing agency M/s Isha Protective Security Guard Pvt. Ltd., Bhopal in the year 2020. Due to certain situation, they had to shorten their expenditure and requested the outsourcing agency to decrease manpower supplied to them, it might be that the workman was disengaged by outsourcing agency. Thus according to management, they are not an industry, applicant is not a workman under the Act and there is no relation of employer-employee between the parties. Management has requested that the reference be answered against the applicant workman.

In its rejoinder, the workman has alleged that the management is involved in commercial activities, It prepares

different articles and manufacture them as well markets them and earn profit by selling it products. They also charge fees for entering their campus, they have nothing to do with promotion and Tribal art and culture hence, they are an industry under the Act and the applicant is workman under the Act because he has been doing job of a Gardner with the management in maintaining their vast campus, his work was planting and maintaining the plants and trees, cutting the grass, etc. The applicant has also denied that he worked with any outsourcing agency as pleaded by the management rather he has been under continuous engagement of the management.

In evidence, the applicant side has filed muster rolls with respect to employees since 2001 to 2020, obtained by him under RTI. He has further filed his ESIC card, EPF slip, certified statements of Bank account, wage slips.

He has further filed his affidavit as his Examination-in-chief and has been cross-examined by management. Management has not filed any evidence.

I have heard argument of Learned Counsel for the Workman, Mr. Viday Raj Malviya and Mr. Vikram Singh, Learned Counsel for Management. I have gone through the record. Both the parties have filed written submissions, which are part of record. I have gone through the written submissions and record as well.

On perusal of record, in light of rival submissions, following issues come up for determination:-

1. ***Whether the management is 'industry' and applicant is 'workman' under the Act?***
2. ***Whether the management has adopted unfair labour practice in engaging contract labour for 20 years and more for the same work just with a view to deny the worker his legitimate claims?***
3. ***Relief to which the workman may be entitled ?***

Issue No. 1:-

It has been submitted on behalf of the management that since they are involved in promotion of Tribal art and culture, they are doing their job without any motive of profit hence, they are not an industry and the applicant is not a workman under the Act, reference of ***Judgment of Hon'ble Supreme Court in case of Bharat Bhavan Trust v/s Bharat Bhavan Artists Association & others in Civil Appeal No. 5614/2001*** has been taken in this respect.

On the other hand, it has been submitted from the side of workman that he was engaged in the work of maintenance and gardening, watering the plants, cleaning the gardens, grass cutting, planting new plants, it comes under the skill category of manual work. Furthermore, the management is engaged in commercial activities of manufacturing and selling its products in market and also charging visitors for the visit of its campus hence, they are 'industry, and the applicant is a 'workman' under the Act.

Before entering into any discussion some relevant provision are required to be reproduced which are as follows:-

> ***2(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;***
>
> ***2(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;***

Now coming on the case in hand, the management is involved in the production and selling of its products manufactured by them and also charged visitors for visit of their campus. These allegations have been corroborated by the affidavit of the workman filed as his Examination-in-chief. He has been cross-examined by management and there is nothing in his cross-examination to discredit his statement.

The Judgment of Hon'ble Apex Court in the case of Bharat Bhavan Trust *(supra)* can be distinguished on facts, in the referred case, Hon'ble Supreme Court found that the Bharat Bhavan Trust was involved only in engaging artist for cultural activities just for promotion of art and culture. Hence, they were not held to be an industry under the Act, whereas in the case in hand, it is proved by cogent evidence that the management is engaged in commercial activities from manufacturing and selling of its products and by way of charging fees on visit of their campus. Hence, in light of law propounded by ***Constitutional Bench of Hon'ble Apex Court in Bangalore Water Supply & Sewerage Board v/s A. Rajappa & Ors., (1978) 2 SCC 213***, the management is held to be an industry under the Act .

As regards to the argument as to whether the applicant is a workman as defined under the Act or not, ***Hon'ble High Court of Bombay in the case of Union Carbide (India) Ltd. V.s. Ramesh Kumbla and Others reported in MANU/MH/0073/1999*** *and* ***another judgment of the same High Court in the case of Union Carbide (India) Ltd. V.s. D. Samuel and Others reported in MANU/MH/1713/1998***, may be referred in this respect. In these two cases, after analyzing the judgment of various High Courts and Hon'ble Supreme Court, the Single Bench of Hon'ble Bombay High Court has summarized the principles on the basis of which it is to be decided whether the Applicant is in supervisory capacity or not. These tests mentioned in **Para 34 and 35** of the Judgment are being reproduced as follows:

Para-34. ***In so far as the Apex Court is concerned, some of the tests laid down are:***

(1) ***Designation is not material but what is important is the nature of work.***

(2) ***Find out the dominant purpose of employment and not any additional duties the employee may be performing.***

(3) ***Can he bind the Company/employer to some kind of decisions on behalf of the Company/employer.***

(4) ***Has the employee power to direct or oversee the work of his subordinates.***

(5) ***Has the power to sanction leave or recommend it; and***

(6) ***Has he the power to appoint, terminate or take disciplinary action against workmen.***

Para-35. ***From the judgment of this Court and the other High Courts some of the tests apart from what the Apex Court has stated are:***

(a) whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not;

(b) Does the employee have powers of assigning duties and distribution of work;

(c) Can he indent material and distribute the same amongst the workmen;

(d) Even though he has no authority to grant leave does he have power to recommend leave;

(e) Are these persons working under him;

(f) Has he the power to supervise the work of men and not merely machines;

(g) Dos he mark the attendance of other employees;

(h) Does he write the confidential reports of his subordinates.

The judgment of Hon'ble Supreme Court in the case of ***S.K. Maini vs. M/s. Carona Sahu Company, (1994) 3 SCC 510***. Para 9, 10 & 11 of this judgment are being reproduced as follows :-

"9. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the learned counsel for the parties, it appears to us that whether or not an employee is a workman under Section 2(s) of the Industrial Disputes Act is required to be determined with reference to his principal nature of duties and functions. Such question is required to be determined with reference to the facts and circumstances of the case and materials on record and it is not possible to lay down any strait-jacket formula which can decide the dispute as to the real nature of duties and functions being performed by an employee in all cases. When an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the appropriate classification but in the complexity of industrial or commercial organisations quite a large number of employees are often required to do more than one kind of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it. In this connection, reference may be made to the decision of this Court in Burmah Shell Oil Storage and Distribution Co. of India Ltd. v. Burmah Shell Management Staff Assn. [(1970) 3 SCC 378 : (1971) 2 SCR 758 : (1970) 2 LLJ 590] In All India Reserve Bank Employees' Assn. v. Reserve Bank of India [(1965) 2 LLJ 175 : AIR 1966 SC 305 : (1966) 1 SCR 25] it has been held by this Court that the word 'supervise' and its derivatives are not words of precise import and must often be construed in the light of context, for unless controlled, they cover an easily simple oversight and direction as manual work coupled with the power of inspection and superintendence of the manual work of others. It has been rightly contended by both the learned counsel that the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. The determinative factor is the main duties of the employee concerned and not some works incidentally done. In other words, what is, in substance, the work which employee does or what in substance he is employed to do. Viewed from this angle, if the employee is mainly doing supervisory work but incidentally or for a fraction of time also does some manual or clerical work, the employee should be held to be doing supervisory works. Conversely, if the main work is of manual, clerical or of technical nature, the mere fact that some supervisory or other work is also done by the employee incidentally or only a small fraction of working time is devoted to some supervisory works, the employee will come within the purview of 'workman' as defined in Section 2(s) of the Industrial Disputes Act.

10. In Mcleod and Co. v. Sixth Industrial Tribunal, W.B. [AIR 1958 Cal 273] P.B. Mukharji, J. of the Calcutta High Court as the learned Chief Justice then was, observed that whether a person was a workman within the definition of the Industrial Disputes Act would be the very foundation of the

jurisdiction of the Industrial Tribunal. The court further observed that in order to determine the categories of service indicated by the use of different words like 'supervisory', 'managerial' and 'administrative', it was not necessary to import the notions of one into the interpretation of the other The words such as 'supervisory', 'managerial' and 'administrative' are advisedly loose expressions with no rigid frontiers and too much subtlety should not be used in trying to precisely define whether supervision ends and management begins or administration starts. For that would be theoretical and not practical. It has to be broadly interpreted from a common sense point of view whose tests will be simple both in theory and in their application. The learned Judge further observed that a supervisor need not be a manager or an administrator and a supervisor can be a workman so long as he did not exceed the monetary limitation indicated in the section and a supervisor irrespective of his salary is not a workman who has to discharge function mainly of managerial nature by reasons of the duties attached to his office or of the powers vested in him. The aforesaid decision of the Calcutta High Court was noted with approval by this Court in National Engineering Industries Ltd. v. Shri Kishan Bhageria [1988 Supp SCC 82 : 1988 SCC (L&S) 428 : AIR 1988 SC 329] .

11. It may be noted in this connection that in view of the amendment of Section 2(s) enlarging the ambit of the classification of various types of workmen except managerial force, entire labour force has been included within the definition of workman under Section 2(s) as has been indicated by this Court in S.K. Verma v. Mahesh Chandra [(1983) 4 SCC 214 : 1983 SCC (L&S) 510 : (1983) 3 SCR 799] . But if the principal function is of supervisory nature, the employee concerned will not be workman only if he draws a particular quantum of salary at the relevant time as indicated in Section 2(s). In the instant case, it, however, appears to us that Shri Maini as Manager/In-charge of the shop was made responsible and liable to make good such amount of credit whether such sale on credit had been made by him or by any other member of the staff in employment under him with or without his knowledge. Under the terms and conditions of service, he was asked to take charge of the shop to which his service was transferred. Mr Maini, under the terms and conditions of service, was required to be held responsible and liable for any loss suffered by the Company due to deterioration of the quality of the stock or any part thereof and loss of any of the other articles lying in the shop caused by reason of any act of negligence and/or omission to take any precaution by the employees. Mr Maini was also required to notify the Company by trunk call and/or telegram not later than three hours after the discovery in the said shop of any fire, theft, burglary, loot or arson. He was required to investigate into the matter immediately and get the cause and amount of loss established by local authorities. Mr Maini as in-charge of the shop was required to keep and maintain proper accounts as approved by the Company indicating the exact amount to be paid from the receipts from the respective staff. Under Clause XIII of the terms and conditions of the service, Mr Maini would remain fully responsible to the Company for damages or loss caused by acts or commission of the loss of the employees of the shop. Under Clause XV of the terms and conditions of service, the shop in-charge was required to keep himself fully conversant with all the regulations in force which may come into force from time to time with regard to Octroi, Sales Tax and Shops and Commercial Establishments Act and/or any other local regulation applicable to the shop. Clause XXI indicates that non-compliance with any of the local or State Acts or Central Acts would be viewed seriously and Manager would be held responsible for any fine/penalty imposed and/or prosecution launched against the Company. It also appears that in the event of a salesman being absent, the shop in-charge is empowered to appoint temporary helper for the said period to work as acting salesman. Similarly, in the event of helper being absent, the shop manager is also empowered to appoint part-time sweeper and to entrust the work of a helper to a sweeper. Such functions, in our view, appear to be administrative and managerial. By virtue of his being in-charge of the shop, he was the principal officer-in-charge of the management of the shop. We therefore find justification in the finding of the High Court that the principal function of the appellant was of administrative and managerial nature. It is true that he himself was also required to do some works of clerical nature but it appears to us that by and large Shri Maini being in-charge of the management of the shop had been principally discharging the administrative and managerial work. A manager or an administrative officer is generally invested with the power of supervision in contradistinction to the stereotype work of a clerk. This Court in Lloyds Bank Ltd. v. Panna Lal Gupta [(1961) 1 LLJ 18 : AIR 1967 SC 428] has indicated that a manager or administrator generally occupies a position of command or decision and is authorised to act in certain matters within the limits of his authority without the sanction of his superior. In the instant case within the authority indicated in the terms and conditions of his service, Shri Maini was authorised to take decisions in the matter of temporary appointments and in taking all reasonable steps incidental to the proper running of the shop. Precisely for the said reason, Shri Maini had signed the statutory forms as an employer. It should be borne in mind that an employee discharging managerial duties and functions may not, as a matter of course, be invested with the power of appointment and discharge of other employees. It is not unlikely that in a big set-up such power is not invested to a local manager but such power is given to some superior officers also in the management cadre at divisional or regional level. The unit in a local shop may not be large but management of such small unit may fulfil the requirements and incidences of managerial functions. On a close scrutiny of the

nature of duties and functions of the Shop Manager with reference to the admitted terms and conditions of service of Shri Maini, it appears to us that the High Court was justified in holding that the appellant was not a workman under Section 2(s) of the Industrial Disputes Act. In the aforesaid facts, it is not necessary to go into the question as to whether or not domestic enquiry had been properly conducted or the Enquiring Officer had acted with bias. It is also not necessary to decide for the purpose of the disposal of the appeal as to whether or not the Company was entitled to lead fresh evidence in support of the domestic enquiry before the Labour Court. The appeal is, therefore, dismissed without, however, any order as to cost."

In another case of ***Vandana Joshi vs. Standard Charter Bank MANU/MH/1391/2010***, decided by Hon'ble High Court of Bombay it has been laid down ***that the question as to whether the employee is a applicant or not must be decided with reference to the dominant nature of the duties and responsibilities performed by employee***.

In the case of ***Arkal Govind Rao vs. Ciba Geigy of India, reported in (1985) 3 SCC 371***, it was held that ***the person concerned would not cease to be a applicant if he performs some supervisory duty but he must be a person engaged in supervisory duty and the test to be employed is what was the primary, basic or dominant nature of duties for which the person whose status is under inquiry was employed.***

Now analyzing the evidence in the case in hand on the basis of tests laid down in the aforesaid Judgments, it comes out that the role and duties of the Applicant qualify him to be a workman under the Act There is nothing on record to show that the workman was working in any managerial or supervisory capacity. **Hence the applicant is held to be a workman as defined under section 2(s) of the Act.**

Issue No. 1 is answered accordingly.

Issue No -2

The workman has alleged that he was employed by the management in the year 2001 and worked as an employee of management till 2020. Case of management is that, he was engaged by an outsourcing agency, which were given contract of maintenance of the campus right from 2001 till date, the workman himself has filed RTI documents with respect to muster roll, which goes to show that these muster rolls belong to different outsourcing agencies with which the workman had worked as an employee and also worked on the site of the management. His documents in form of his PF slips, ESIC slips also support this fact. Management has also filed the same muster rolls to show that the workman was employed by different outsourcing agencies during this period though, worked on the site of management.

Since, it is not the case of the workman that the outsourcing agencies were sham and camouflage, used as a smoke screen to hide the facts that infact he was under effective control and supervision as well worked under the directions of the management, the argument of Learned Counsel for workman that the outsourcing agreements are camouflage cannot be accepted. Moreover, there is no evidence in support of this fact in the statement of the workman. Since, neither it is in the pleadings nor in evidence that the outsourcing contracts were camouflage, the ***Judgment of Hon'ble Supreme Court in the case of All India Statutory Corporation v/s United Labour Union & Ors., Civil Appeal No. 15536/1996*** and other appeals as well, the Judgment in case of ***Hussainbhai, Calicut v/s Alath Factory Thozhilali Union, Kozhikode & Ors., (1978) 4 SCC 257***, and ***The Workman of Neelgiris Co-operative v/s State of Tamil Nadu, (2001) 1 LLJ 1095 Mad***, do not help him.

It is established that when the service of the workman was terminated, he was working on contract basis engaged by outsourcing agencies. He was terminated by outsourcing agency under whom he was working.

Hence he may claim any relief from outsourcing agency which terminated him but they are not a party in this reference.

Section 2(ra) of the Act is being reproduced as follows:

2(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

THE FIFTH SCHEDULE See section 2(ra) UNFAIR LABOUR PRACTICES I.—On the part of employers and trade unions of employers

10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

Section 10 Contract Labour (Regulation & Abolition) Act, 1970, is being reproduced as follows:-

"*10. Prohibition of employment of contract labour.*-

(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour that establishment and other relevant factors, such as-

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment ;

(b) whether it is of perennial nature, that is to say, it is so of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen. Explanation.- If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final."

It is established that there is a vacancy of permanent nature with the management hence, contract labour could not be engaged for it.

Since, engaging Badli, Casual or Temporaries employees on permanent post is unfair labour practice as defined in the Act and is prohibited in the Act, hence, outsourcing agreements are just to flout law in this respect in fact.

In the light of above facts and circumstances, it is held proved that the management has adopted unfair labour practice by way of engaging the workman as an outsourcing employee for more than 20 years just with a view to deny him his legally admissible claims.

Issue No.-2 is answered accordingly.

Issue No.-3

Unfair labour practice is prohibited under the Act. It is punishable as a crime.

25T. Prohibition of unfair labour practice.—*No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.*

25U. Penalty for committing unfair labour practices.—*Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.*

This Tribunal is well within its powers to undo the civil consequences of such an unfair labour practice.

Following paragraphs of the judgment of Hon'ble Supreme Court in case of, ***Sudarshan Rajpoot v/s U.P. State Road Transport Corporation (2015) II, SCC 317***, are being reproduced as follows:-

11. It has been contended by the learned counsel for the appellant workman that the High Court has erred in placing reliance upon the decision of this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , which was distinguished inasmuch as the said case is not applicable to the case on hand for the reason that the appellant workman is a "workman" as defined under Section 2(z) of the UPID Act and the respondent is the statutory corporation which is an undertaking of the State Government and therefore, as it is an instrumentality of the State Government, it will come within the definition of "industry" as defined under Section 2(k) of the UPID Act. Therefore, the said provisions of the UPID Act are applicable to the appellant workman as he is a "workman" as defined under Section 2(z) of the UPID Act and Section 2(s) of the ID Act, 1947.

12. Further, it is contended that the High Court has failed to consider the "unfair labour practice" as defined under Section 2(ra) of the ID Act, 1947 read with Sections 25-T and 25-U and Schedule V of the ID Act. Item 10 of Schedule V of the ID Act prohibits the employer to employ workmen as badlis, casuals or temporaries and to continue them as such for years in the Corporation, with the object of depriving them of the status and privileges of permanent workmen is prohibited. It is further contended that the respondent Corporation is liable for penal action under the provisions of Section 25-U of the ID Act. In support of the above contention, reliance was placed on the three-Judge Bench decision of this Court in Chief Conservator of Forests v. Jagannath Maruti Kondhare [Chief Conservator of Forests v. Jagannath Maruti Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] .

13. On the other hand, the learned counsel appearing on behalf of the respondent Corporation sought to justify the correctness of the finding and reasons recorded by the High Court in the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] . Alternatively, it is contended that even if the order of termination is bad in law, the workman who is

working on the contract basis is not entitled for reinstatement with full back wages as per the view taken by this Court in several decisions. Therefore, the learned counsel for the respondent Corporation submits that the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] and order need not be interfered with by this Court in exercise of its appellate jurisdiction.

14. With reference to the abovesaid rival legal contentions the following substantial questions would arise for our consideration:

14.1. (i) Whether the High Court is justified in passing the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] , order and reversing the award passed by the Labour Court?

14.2. (ii) Whether the order of termination passed against the appellant workman amounts to retrenchment as defined under Section 2(s) of the UPID Act, 1947?

14.3. (iii) Whether non-compliance with the statutory provisions under Sections 6-N and 6-Q of the UPID Act which are analogous with Sections 25-F and 25-H, respectively, of the ID Act, 1947 renders the order of termination void ab initio in law?

14.4. (iv) What relief is the appellant workman entitled to?

15. To answer the above substantial questions of law it is necessary for this Court to extract the order of termination passed by the Assistant Regional Manager of the Corporation, which reads thus:

"OFFICE OF ASSISTANT REGIONAL MANAGER,

U.P. TRANSPORT CORPORATION, AZAD NAGAR DEPOT

Letter No. ARM/A. Ngr/Bus Accident 0582/2000/3591 dated 29-7-2000

OFFICE ORDER

On 7-6-1999 vehicle bearing No. 8582 which had met with an accident which was being driven on 7-6-1999 by Shri Sudarshan Rajpoot, contractual driver and conductor Shri Kamta Prasad on Deoria to Kanpur route and accident occurred on the way at 1.30 a.m. in the night at Village Palhari, Barabanki near Police Station Safdarganj and due to negligent driving of the driver, department suffered heavy loss.

Hence, in order to meet departmental loss, forfeiting security of driver Shri Sudarshan Rajpoot, I pass the order to strike off his name from the contract roll with an immediate effect. His name be struck off from contract roll.

sd/-

(Illegible)

(Sad Sayed)

Assistant Regional Manager,

Azad Nagar, Depot"

(emphasis supplied)

In the aforesaid order of termination it is specially mentioned that the appellant workman was appointed as a driver on contractual basis. It has been further stated that the accident occurred on 7-6-1999 due to the negligent driving of the appellant workman resulting in heavy loss to the Department of the respondent Corporation. In order to meet the departmental loss, security amount of driver was forfeited and Assistant Regional Manager had struck off the name of the appellant workman from the contract employees roll with immediate effect.

16. The respondent Corporation has neither produced documentary evidence nor showed before the Labour Court that the appellant workman was appointed on contract basis. The fact that he deposited Rs 2000 towards security amount with the respondent Corporation indicates that he was working as a driver on a permanent basis. In view of Schedule V, Item 10 of the ID Act, 1947 the respondent Corporation is prohibited from engaging the appellant workman as a badli, casual or temporary workman to work on permanent basis. The fact that he had been continuously working for more than 3 years and he had rendered more than 240 days of service as the driver in a calendar year until his termination order and yet he is being engaged on a contractual basis in the respondent Corporation is statutorily prohibited. The same amounts to an unfair labour practice as defined under Section 2(ra) read with Section 25-T, which action of the Corporation is punishable under Section 25-U of the ID Act. This legal position is settled by this Court in Chief Conservator of Forests case [Chief Conservator of Forests v. Jagannath Maruti

Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] wherein it was held as under : (SCC pp. 302-03, para 22)

"22. … In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if badlis, casuals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from the materials on record we are satisfied that the 25 workmen who went to the Industrial Court of Pune (and 15 to the Industrial Court, Ahmednagar) had been kept as casuals for long years with the primary object of depriving them of the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered, that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on the increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If, even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants."

25. This Court in the later judgment in Hari Nandan Prasad v. Food Corporation of India [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , after adverting to the law laid down in U.P. Power Corpn. Ltd. v. Bijli Mazdoor Sangh [(2007) 5 SCC 755 : (2007) 2 SCC (L&S) 258] and Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] wherein Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is adverted to in both the cases, held that on a harmonious reading of the two judgments, even when there are posts available, in the absence of any unfair labour practice the Labour Court cannot give direction for regularisation only because a worker has continued as daily-wage worker/ad hoc/temporary worker for number of years. Further, such a direction cannot be given when the worker concerned does not meet the eligibility requirement of the post in question as per the recruitment rules:

25.1. It was held at para 32 in Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] as under : (SCC p. 211)

"32. However, the Court in Maharashtra SRTC case [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556: (2009) 2 SCC (L&S) 513] found that the factual position was different in the case before it. Here the post of cleaners in the establishment was in existence. Further, there was a finding of fact recorded that the Corporation had indulged in unfair labour practice by engaging these workers on temporary/casual/daily-wage basis and paying them paltry amount even when they were discharging duties of eight hours a day and performing the same duties as that of regular employees."

25.2. Furthis, Hari Nandan Prasad [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] referred at para 36, LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] in which the relevant para 22 of LIC case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213)

"36. … '22. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counterproductive battles and the assurance of industrial justice may create a climate of goodwill.' (D.J. Bahadur case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] , SCC p. 334, per Krishna Iyer, J.)

In order to achieve the aforesaid objectives, the Labour Courts/Industrial Tribunals are given wide powers not only to enforce the rights but even to create new rights, with the underlying objective to achieve social justice. Way back in the year 1950 i.e. immediately after the enactment of the Industrial Disputes Act, in one of its first and celebrated judgment in Bharat Bank Ltd. v. Employees [1950 SCC 470 : AIR 1950 SC 188 : 1950 LLJ 921 at p. 948] this aspect was highlighted by the Court observing as under : (AIR p. 209, para 61)

'61. … In settling the disputes between the employers and the workmen, the function of the Tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace.'"

25.3. And again at para 37, observing that the aforesaid sweeping power conferred upon the Tribunal is not unbridled and is circumscribed by this Court in New Maneck Chowk Spg. & Wvg. Co. Ltd. v. Textile Labour Assn. [AIR 1961 SC 867] , the relevant para 6 of which is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213, paras 37-38)

"37. … '6. … This, however, does not mean that an Industrial Court can do anything and everything when dealing with an industrial dispute. This power is conditioned by the subject-matter with which it is dealing and also by the existing industrial law and it would not be open to it while dealing with a particular matter before it to overlook the industrial law relating to that matter as laid down by the legislature or by this Court.' (Textile Labour Assn. case [AIR 1961 SC 867] , AIR p. 870)

38. It is, thus, this fine balancing which is required to be achieved while adjudicating a particular dispute, keeping in mind that the industrial disputes are settled by industrial adjudication on principle of fair play and justice."

26. In view of the aforesaid statement of law laid down by this Court after adverting to the powers of the Industrial Tribunal and the Labour Court as interpreted by this Court in the earlier decisions referred to supra, the said principle is aptly applicable to the fact situation of the case on hand, for the reason that the Labour Court recorded a finding of fact in favour of the workman that the termination of services of the appellant herein is not legal and valid and further reaffirmed the said finding and also clearly held that the plea taken in the order of termination that he was appointed on contract basis as a driver is not proved by producing cogent evidence. Further, we hold that even if the plea of the employer is accepted, extracting work though of permanent nature continuously for more than three years, the alleged employment on contract basis is wholly impermissible. Therefore, we have held that it amounts to an unfair labour practice as defined under Section 2(ra) of the ID Act, 1947 read with Section 25-T which is prohibited under Section 25-U, Chapter V-C of the ID Act, 1947. We have to hold that the judgment of the High Court in reversing the award is not legal and the same is set aside by us.

21. In the order of termination, it is alleged that on account of negligent driving of the bus by the appellant workman the accident of the vehicle happened, the said allegation was neither proved in the inquiry required to be conducted nor producing evidence before the Labour Court by the respondent Corporation. Therefore, the High Court has failed to examine the above vital aspects of the case on hand and erroneously interfered with the award passed by the Labour Court in exercise of its extraordinary and supervisory jurisdiction under Articles 226 and 227 of the Constitution of India. This exercise of power is contrary to the law laid down by this Court in Harjinder Singh v. Punjab State Warehousing Corpn. [(2010) 3 SCC 192 : (2010) 1 SCC (L&S) 1146] , wherein this Court held thus : (SCC p. 205, para 21)

"21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and/or 227 of the Constitution in matters like the present one, the High Courts are duty-bound to keep in mind that the Industrial Disputes Act and other similar legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:

'10. … the concept of social and economic justice is a living concept of revolutionary import; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.'

(State of Mysore v. Workers of Gold Mines [AIR 1958 SC 923] , AIR p. 928, para 10.)"

24. We are of the opinion that the view taken in Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] at para 36 after distinguishing Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is the plausible view. Therefore, we have to hold that the finding of the High Court in setting aside the finding of fact recorded by the Labour Court in its award by applying Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is wholly untenable in law. Therefore, the same is set aside by this Court.

23. Further, the reliance placed upon the decision of this Court on Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] by the High Court to reverse the finding of fact recorded in the award in favour of the workman in answering the points of dispute in the negative, is not tenable in law in view of the judgment of this Court in Maharashtra SRTC v. Casteribe

Rajya Parivahan Karmchari Sanghatana [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] , wherein, this Court after adverting to Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] at para 36, has held that the said case

"does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist". (SCC p. 574)

Further, this Court held that : (SCC p. 574, para 36)

"36. … Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established."

It is a established from evidence that the applicant workman was first appointed by outsourcing agencies and his services were taken by management as an outsourced employee supplied by the outsourcing agencies who had employed the workman on contract extended on yearly basis.

By not employing a person on permanent regular basis against the permanent vacancy and engaging contract labours for a work of permanent perennial nature either directly or by outsourcing agencies, the management is held adopting unfair labour practice which is prohibited under the Act.

Reference may be taken of judgment of Hon'ble Supreme Court in the case of ***Jaggo v/s Union of India reported in (2024) SCC Online SC 3826*** , the relevant paragraphs of this judgment are being reproduced as follows:-

"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. ……

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 labelled 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."

The principle laid down in the case of Jaggo (Supra) has been followed by Hon'ble Supreme Court in the case of ***Shripal Vs. Nagar Nigam Ghaziabad in Civil Appeal No. 8157/2024 (2025 INSC 144).*** The relevant portion of the said judgment is being reproduced as follows:-

"12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent. 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 (supra) 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. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a recent judgment of this court in Jaggo v. Union of India

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period. 18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:-

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from thereof their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their

entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms."

In the case of ***The Municipal Council, Rep. By Its Commissioner Nandyal Municipality, Kurnool District, A.P. v/s K. Jayaram and Others etc. Etc., 2026 Live Law (SC) 38, Hon'ble the Apex Court***, has laid down that outsourced employees cannot be regularized by the principal employer because there is no relation of employer-employee between the principal employer and the employee. Hon'ble Supreme Court, issued direction to management in that case to consider regularization of the workman if he was found otherwise fit. The relevant portion of the said Judgment is being reproduced as follows:-

"Having passed the order, we feel that sometimes justice is required to be tempered with mercy as human factors cannot be totally lost sight of. In such view of the matter, we would require the appellant to look into whether the jobs which were being done by the respondents, in the background that they have not been disengaged or returned to the contractor on the ground of being unsatisfactory, having uninterrupted service under the appellant for decades can be regularized on posts, which prima facie appears to be perpetual in nature. We make it clear that this direction is limited for the purposes of the present case only as it has been passed in the special facts and circumstances of the present case and shall not be treated as a precedent in any other case. We expect the appellant to take a compassionate and sympathetic view in the matter." Almost similar are the facts in the case in hand.

In the light of above proposition of law, the workman is held entitled to be considered for regularization.

Issue No.-3 is answered accordingly.

In the light of above discussion and findings the reference is answered as follows:-

AWARD

The management is directed to initiate a fair and transparent process for regularizing the Workman within six months from the date of judgment duly considering the fact that he has performed perennial duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retrospectively if such requirements were never applied to the Workman or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure that longtime worker is not indefinitely retained on outsourcing contrary to statutory and equitable norms.

No order as to cost.

DATE:- 16-02-2026 P.K.SRIVASTAVA, PRESIDING OFFICER

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2016.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **दूरदर्शन केंद्र** के नियोक्ताओं के संबंध में और **श्री अंकित गोस्वामी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालया, जबलपुर पंचाट(संदर्भ संख्या **100/2016**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42012/95/2016-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2016.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **100/2016)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Doordarshan Kendra** and **Shri Ankit Goswami,** workman.

[No. L-42012/95/2016-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/100/2016

Present: P.K.Srivastava, H.J.S..(Retd)

Ankit Goswami,
S/o Shri Anil Goswami,
C-10, Civil Lines, 4, Bunglow Road,
Bhopal (M.P.) **Workman**

Versues

The Director,
Doordarshan Kendra,
Shymala Hills,
Bhopal (M.P.) - 462013

Management

JUDGMENT

Passed on this 04th day of February, 2026

As per letter dated 16.11.2016 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **L-42012/95/2016 (IR(DU))** dt. 16.11.2016. The dispute under reference relates to:

"***Whether the action of the management of Director, Doordarshan Kendra, Bhopal in refusing employment to the Shri Ankit Goswami S/o Shri Anil Goswami w.e.f. 08.04.2015 is legal & justified? If not, to what relief the workman concerned is entitled to?***"

Case of the workman is mainly that, he was appointed as Resource Person with the Management vide order dated 07.01.2014 and worked till 07.08.2015 when his services were orally terminated by the Management without any notice or compensation. Though he had worked for 240 days in a year, this act of Management is in violation of Section 25F and 25G of the Act. The Workman has prayed that setting-aside his termination, he be reinstated with back wages and benefits.

The case of the Management is that, he was never appointed as a Resource Person as claimed by him in fact, he was on casual assignment of Doordarsan as a Resource Person to assist the program producer. He was paid his wages as per Circular whenever he was called for work, which was only for three or four days in a month. Hence, provisions of the Act are not attracted.

The Workman has not filed any document. Management has filed voucher for payments to the Workman for four programs which are admitted by workman. The Workman did file his affidavit in evidence but never turned up for cross-examination, hence his evidence was closed. Management also produced no evidence.

None appeared for the parties at the time of argument. Perused record.

The initial burden to prove his claim is on Workman in which he has failed by not producing any evidence. Hence, holding the claim of the workman not proved the reference deserves to be answered accordingly.

AWARD

Holding the action of the management of Director, Doordarshan Kendra, Bhopal in refusing employment to the Shri Ankit Goswami w.e.f. 08.04.2015 is legal & justified. He is entitled to no relief.

DATE:- 04.02.2026

P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2017.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केंद्रिय लोक निर्माण विभाग** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली -II** के पंचाट (79/2020) प्रकाशित करती है।

[सं. एल - 12025/01/2026- आई आर (बी-I)-214]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2017.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.79/2020*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Delhi - II* as shown in the Annexure, in the industrial dispute between the management of Central Public Work Department and their workmen.

[No. L-12025/01/2026- IR(B-I)-214]

SALONI, Deputy Director

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM – LABOUR COURT NO. II, NEW DELHI

I.D. No. 79/2020

Sh. Rajendra Kumar vs. C.P.W.D. and Ors.

Sh. Rajendra Kumar, S/o Late Sh. Raghuvir Singh,
Through- The president Sh. Hukum Chand,
CPWD Karamchari Union, Babu Lal Ji Complex,
Shop No-04, Gurgaon Road, Opposite Bus Stand,
Gurgaon Haryana-122001. …Applicant/Claimant

Versus

1. The Director General,
   Central Public Works Department,
   Nirman Bhawan, New Delhi-110001.
2. The Executive Engineer,
   Assistant Director General,
   Police HQ-12, New Delhi-110002.
3. The Executive Engineer, M-413 (R),
   Bharo Marg, Pragati Maidan, New Delhi-110001.
4. Rakshat Securities (Contractor),
   T-5, Plot No. 12, Manish Plaza-111,
   Sector-10, New Delhi-110075. …Managements/respondents

Award

05.05.2026

Item No.- 09

I.D. No. 79/2020

05th May 2026

Present:

Sh. Prakash Chandra, Ld. AR for the claimant.

Ms. Pritanshu, proxy counsel for management-1, 2 & 3 (CPWD).

Sh. Ashutosh Verma, Ld. AR for management-4. (M/s. Rakshat Securities).

The Ld. AR for the claimant has pressed his application filed under Order VI Rule 17 read with Order I Rule 10 and Section 151 CPC seeking impleadment of the Secretary, P.W.D.; application under Order XII Rule 8 read with Section 151 CPC for impleadment of the Secretary, P.W.D.; and application under Order VII Rule 14 CPC for placing additional documents on record.

Taking up the first application whereby the applicant seeks deletion of management no.1, namely the Director General, CPWD, from the array of parties on the ground that it is neither a necessary party nor is any relief claimed against it. It is further submitted that in its place, the Secretary, P.W.D., GNCTD, Delhi Secretariat, I.P. Estate, Delhi-110002, be impleaded as a party, because it is the controlling authority of management nos.2 and 3 in the present matter.

Before proceeding further, it would be appropriate to briefly reproduce the facts of the present case. The claimant has alleged that he was working with management no.1, Director General, CPWD; management no.2, Executive Engineer, Police HQ-12, New Delhi-110002; management no.3, Executive Engineer, M-413 (R), Bhairon Marg, Pragati Maidan, New Delhi-110001; and management no.4, Sh. Rakshat Securities (Contractor), and that his services were terminated illegally and unjustifiably by the managements.

Management nos.1, 2 and 3, in their written statement, have explicitly denied the relationship of employer and employee with the claimant. It is also a matter of record that a certificate under Section 2-A of the Industrial Disputes Act, 1947 was issued by the Dy. CLC (Central), New Delhi.

Considering the prayer of the Ld. AR for the claimant seeking deletion of the Director General, CPWD, from the array of parties, the application is allowed. However, this case cannot be entertained by this Tribunal any further, as this Tribunal has jurisdiction only over cases filed against the departments of the Central Government, wholly or partially. At this stage, the Ld. AR for the claimant has agreed to withdraw the present case.

In view of the aforesaid submissions, the present claim stands dismissed as withdrawn, with liberty to the claimant to file the same before the appropriate forum in accordance with law. Let a copy of this order be sent to the appropriate Government for notification as required under Section 17 of the Industrial Disputes Act, 1947. The case file be consigned to the Record Room.

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2018.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आयकर आयुक्त, बिलासपुर आयकर कार्यालय, सरगुजा मेसर्स क्लीनटेक सर्विसेज़ एंड वर्क फ़ोर्स** और **श्री गोरेलाल** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट (संदर्भ संख्या **72/2020**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42012/158/2018-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2018.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref.No. 72/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Income, Tax Commissioner, Bilaspur, The Income Tax Office, Chhatisgarh, M/s Cleantech Services & Work Force** and **Shri Gorelal,** workman.

[No. L-42012/158/2018-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR (M.P.)

NO. CGIT/LC/ R/72/2020

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Gorelal,

S/o Shri Latel Prasad Yadav,

R/o Bouripara, near Sagun Garden,

Ambikapur,

Surguja, C.G.- 497001 **Workman**

V/s

1. **The Income Tax Commissioner,**
   Ayakar Bhawan, Vyapar Vihar,
   Bilaspur (Chhattisgarh)- 174001

2. **The Income Tax Office,**
   Office Income Tax, Ward No. 1,
   Kharsia Road, Ambikapur,
   Surguja (C.G.)- 497001
3. **The Director,**
   M/s Cleantech Services & Work Force,
   Shankar Nagar, near Water Tanki,
   Raipur (Chhattisgarh)- 490042 **Management**

JUDGMENT

Passed on this 24th day of February, 2026

As per letter dated ***05/12/2018*** 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-42012/158/2018(IR(DU))*** dt. ***05/12/2018***. The dispute under reference relates to:-

"1. Whether the action on the part of the contractor M/s Clean Tech Pvt. Services Ltd., Raipur engaged by Income Tax Department, Bilaspur in the Office of ITO, Ambikapur in termination the daily wage farash Sh. Gore Lal Yadav without complying the provisions of Sec-25-f of ID Act, 1947 was justified? And if not, to what relief the concerned worker is entitled to?

2. Whether the worker in the dispute initially engaged by the Income Tax Department and subsequently by the contractor can claim permanent absorption and is entitled to be a regular employee of Income Tax Department or as per any other scheme devised by them?"

Case of the workman is that he worked with the Income Tax Department in the Office of Income Tax Office as Peon continuously from 08.03.2002 to 14.04.2017, he was disengaged without any notice or compensation which is in violation of section 25-F and 25-G of the Act hence, unjust, illegal and arbitrary. He is out of employment since the date of his disengagement, he has prayed that his disengagement be held against law and he be entitled to be reinstated with back-wages and benefits.

Case of the management is mainly that ***firstly***, they are not an industry and ***secondly***, his engagement was as a daily wager, he was not appointed against any sanctioned vacancy. Hence, he cannot claim any regularization or any reinstatement.

During hearings, the Department and the outsourcing agency absented themselves hence, reference proceeded *ex-parte*.

In evidence, the workman filed his affidavit.

I have heard *ex-parte* argument from the side of Learned Counsel for workman, Mr. Rakesh Soni and I have gone through the records as well.

As regards, the first contention of Management/Department that they are not an industry, this matter has been decided by this Tribunal vide its order dated 12.05.2022, this order is part of this Judgment.

As regards, the case of the workman to prove his claim that he was engaged by the Department and worked continuously as claimed by him is on the workman only, his self-serving affidavit which is not corroborated by any documentary evidence in form of wage slips, PF deductions, etc., does not establish his this claim. ***Hence, holding his claim not proved in law, the reference deserves to be answered against the workman and stands answered accordingly****."*

No order as to cost.

DATE:- 24-02-2026 P.K.SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2019.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत संचार निगम लिमिटेड** और **श्री महमूद खान और 8 अन्य** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट (संदर्भ संख्या -**56/2013 & 83/2014**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -40012/108/2012-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 24th August, 2026

S.O. 2019.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **56/2013 & 83/2014)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bharat Sanchar Nigam Limited** and **Shri Mahmood Khan & 8 Others** workman.

[No. L-40012/108/2012-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR, (M.P.)

Present: P.K.Srivastava

H.J.S..(Retd)

1. NO. CGIT/LC/R/56/2013

Shri Mahmood Khan,

Near Masjid, Taj Nagar,

Pandari, Raipur (C.G.)

Workman

V/s

The Chief General Manager,

Bharat Sanchar Nigam Ltd.,

Telephone Bhawan, Fafadih Chowk,

Raipur (C.G.)

Management

……Leading Case

2. NO. CGIT/LC/R/83/2014

Shri Mahmood Khan & 8 Ors.,

Phone Mechanic, Near Mosque,

Taz Nagar, Pandari,

Raipur (Chhattisgarh)- 492004 **Workman**

V/s

The GMTD,

Bharat Sanchar Nigam Limited,

Telephone Bhawan, 1st Floor, Fafadih Chowk,

Raipur (Chhattisgarh)

Management

JUDGMENT

Passed on this 4th day of February, 2026

In R/56/2013;

As per letter dated ***06/03/2013*** 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'***), vide Notification ***No. L-40012/108/2012(IR(DU))*** dt. ***06/03/2013***. The dispute under reference relates to:-

"क्या श्री महमूद खान तथा 10 अन्य कर्मकारो (सूची संलग्न) की मांग कि 26 वर्ष सेवा के पश्चात DOT के Decision-1-38 MAP-98/20-4-99 Para-3 of Para-2 के अनुसार रिस्टक्चर केडर फोन मेकेनिक में इन कर्मकारो की नियुक्ति के समय से फोन मेकेनिक गुप. सी के वेतनमान (4500.125.7000) में प्लेस करके 01.12.1998 से भुगतान करने के भारत सरकार/डी.ओ.टी. के डिसीजन 20.4.99 का अनुसरण करते हुऐ और उसी के अनुसार बी.एस.एन.एल के आई डी.ए वेतनमान मे वेतन निर्धारण करने का औचित्य है या नही ? यदि औचित्य है तो उपर्युक्त कर्मकारों को क्या राहत मिलनी चाहिए?"

In R/83/2014:

As per letter dated ***11/11/2014*** 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'***),now The Industrial Relations Code 2020 (in short the Code) as per Notification ***No. L-40012/40/2014(IR(DU))*** dt. ***11/11/2014***. The dispute under reference relates to:-

"Whether the action of the management of GMTD, BSNL, Raipur (CG) in effecting recovery of Rs. 38,097/- on the ground of excess/wrongful payment from the salary of Shri Mahmood Khan and 08 Ors., after 07 years of making excess payment is justified or not? If not, what relief the workmen are entitled to?"

After registering two separate cases on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

As it comes out from the perusal of pleadings and records that the settled facts are that the applicant workmen Mahmood Khan & others raised some demands vide their representation submitted to the management of BSNL. A departmental committee was constituted to consider the representation and vide its report dated 20.01.2017 they recommended for grant of the demand and recommended grant of pay scale of 4000-100-6000/- to applicant workmen from 20.01.1999, the applicants were granted the pay scale and were paid accordingly. Meanwhile, the department stated that the report of the committee was not approved by higher management as it was required, passed orders with respect to recovery of benefits granted on the basis of report of the said committee. Case of the workman is that this action of management is unjust, illegal and arbitrary and having no force of law whereas the management has defended its action stating it just, legal and proper.

Both the sides have filed their respective evidence in form of affidavit and documents. The Tribunal directed vide order dated 22.07.2015 to file the order of approving authority by which the recommendation of the committee was rejected, this order was never filed by the management. First, they filed an affidavit of some officer who had not passed any order on report of committee, later on, they filed an authenticated copy of order of management of BSNL dated 26.05.2025 by which the report of the said committee has been dismissed.

Now, after hearing parties and perusal of record in light of arguments, the issue which remains to be decided with regard to legal effect of the said order, which rejected the report of the committee and was, passed on 26.05.2025. Without going into the legality of the said order dated 26.05.2025, I am of the considered view that this order cannot be implemented retrospectively hence, any deduction of any benefit granted earlier cannot be taken away under this order. This fact also remains to be same that all these workmen have now superannuated much before the order dated 26.05.2025 hence, any recovery of any amount which was paid to them after their superannuation under order passed after their superannuation will not be legal.

Hence, in light of above discussion and findings these two references are answered as follows:-

AWARD

"The action of the management of GMTD, BSNL, Raipur (CG) in effecting recovery of Rs. 38,097/- on the ground of excess/wrongful payment from the salary of Shri Mahmood Khan and 08 Ors , in making excess payment is held un justified in law. The workmen are entitled to get back the amount recovered.

No order as to cost.

DATE:- 04--2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2020.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आयकर आयुक्त, निदेशक, मेसर्स क्लीनटेक सर्विसेज़ एंड वर्क फ़ोर्स** के प्रबंधन के संबंध में और **श्री नरेश कुमार यादव** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट (संदर्भ संख्या 71/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल- 42012/152/2018-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2020.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. 7**1/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Income Tax Commissioner, M/s Cleantech Services & Work Force** and **Shri Naresh Kumar Yadav,** workman.

[No. L-42012/152/2018-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR (M.P.)

NO. CGIT/LC/ R/71/2020
Present: P.K.Srivastava, H.J.S..(Retd)
Shri Naresh Kumar Yadav,
S/o Late Ramadhar Yadav,
R/o Vinoba Nagar, near Gayatri Mandir Chowk,
Teh- Bilaspur,
Bilaspur (Chhattisgarh)- 495001

Workman

V/s

1. **The Income Tax Commissioner,**
   Ayakar Bhawan, Vyapar Vihar,
   Bilaspur (Chhattisgarh)- 495001
2. **The Director,**
   M/s Cleantech Services & Work Force,
   Shankar Nagar, near Water Tanki,
   Raipur (Chhattisgarh)- 490042

Management

JUDGMENT

Passed on this 24th day of February, 2026

As per letter dated ***05/12/2018*** 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-42012/152/2018(IR(DU))*** dt. ***05/12/2018***. The dispute under reference relates to:-

"1. Whether the action on the part of the contractor M/s Cleantech Services & Workforce, Raipur engaged by the Income Tax Department, Bilaspur in terminating the workman namely Shri Naresh Kumar Yadav in the post of peon and without paying the terminal benefits and without complying the provisions of Sec-25-f of ID Act, 1947 is appropriate and justified? If not, what relief the terminated workman Shri Naresh Kumar Yadav is entitled to?

2. Whether the workman in the dispute initially engaged by the Income Tax Department and later on engaged under the contractor is entitled regularization in the recruitment process by devising a new employment scheme?"

Case of the workman is that he worked with the Income Tax Department in the Office of Income Tax Office as Peon continuously from 01.01.1993 to 31.03.2017, he was disengaged without any notice or compensation which is in violation of section 25-F and 25-G of the Act hence, unjust, illegal and arbitrary. He is out of employment

since the date of his disengagement, he has prayed that his disengagement be held against law and he be entitled to be reinstated with back-wages and benefits.

Case of the management is mainly that ***firstly***, they are not an industry and ***secondly***, his engagement was as a daily wager, he was not appointed against any sanctioned vacancy. Hence, he cannot claim any regularization or any reinstatement.

During hearings, the Department and the outsourcing agency absented themselves hence, reference proceeded *ex-parte*.

In evidence, the workman filed his affidavit.

I have heard *ex-parte* argument from the side of Learned Counsel for workman, Mr. Rakesh Soni and I have gone through the records as well.

As regards, the first contention of Management/Department that they are not an industry, this matter has been decided by this Tribunal vide its order dated 12.05.2022, this order is part of this Judgment.

As regards, the case of the workman to prove his claim that he was engaged by the Department and worked continuously as claimed by him is on the workman only, his self-serving affidavit which is not corroborated by any documentary evidence in form of wage slips, PF deductions, etc., does not establish his this claim. ***Hence, holding his claim not proved in law, the reference deserves to be answered against the workman and stands answered accordingly***.*"*

No order as to cost.

DATE:- 24-02-2026 P.K.SRIVASTAVA*, Presiding officer*

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2021.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **राज्य वन रिसर्च इंस्टीट्यूट (एसएफआरआई)** के मैनेजमेंट के संबंध में और **श्रीमती स्नेहलता मिश्रा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या 60/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/110-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 25th August, 2026

S.O. 2021.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. 60/**2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **State Forest Research Institute (SFRI)** and **Shrimati Snehlata Mishra,** workman.

[No. L-42025/07/2026/110-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

JABALPUR (M.P.)

NO. CGIT/LC/ R/60/2020

Present: P.K.Srivastava

H.J.S.(Retd)

Shrimati Snehlata Mishra,

House No.1143,Prem Nagar,

Near Dr.Lodhi, Nagpur Road,

Jabalpur(M.P.)- 482001

Workman

V/s

The PCCF &Director,

State Forest Research Institute (SFRI),

Polipathar,

Jabalpur (M.P.) – 482008 **Management**

JUDGMENT

Passed on this 03rd day of February, 2026

As per letter dated ***11/09/2020*** 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. J-1(4-2)/2020-IR*** dt. ***11/09/2020***. The dispute under reference relates to:-

"क्या प्रबंधतंत्र प्रधान मुख्य वन संरक्षक एवं संचालक, राज्य वन अनुसंधान संस्थान, पोलीपाधर, जबलपुर (म०प्र०) के प्रबंधन व्दारा आदेश क्रमांक स्था0/1469, दिनांक 16.6.2020 के व्दारा श्रीमती स्नेहलता मिश्रा, भूतपूर्व डी.ई.श्री./सपोर्टिंग स्टॉफ की सेवाएं दिनांक 16.07.2020 से समाप्त किये जाने की कार्यवाही न्यायोचित है? यदि नहीं, तो संबंधित कर्मकार किस अनुतोष की हकदार है ?"

After registering the case on the basis of the reference, notices were sent to the parties and where served. They appeared and filed their respective statements of claim and defense.

It is the case of the Workman that she worked as DEO/supporting staff with the Institute from 14/05/2018 to 16/07/2020. She applied for the maternity leave from March 2019 to July 2019. She further joined in August 2019 later on she was disengaged by the Institute without any notice and compensation which was against the law, she prayed that she will reach with all backwages.

Representative from the Institute appeared before this Tribunal but absented, thereafter, the Institute did not file any written statement of defence the case proceeded *Ex-Parte* against the Management, vide order dated 24/06/2024.

At evidence stage the workman also absented herself and did not file any evidence. The matter was posted for Award. The initial burden to prove her claim is on the workman, she did not discharge the burden.

Hence in the light of above discussion and finding the reference deserve to be answered against the workman.

No order as to cost.

DATE:- 03-02-2026 P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 25 अगस्त, 2026

का.आ. 2022.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **हेड पोस्ट ऑफ़िस** और **श्री ओम प्रकाश तिवारी** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायाल, जबलपुर पंचाट(संदर्भ संख्या **39/2022**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है।

[सं. एल -42025/07/2026/115-आईआर (डीयू)]

सलोनी, उप निदेशक

New Delhi, the 24th August, 2026

S.O. 2022.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(**Ref. No. **39/2022)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Head Post Office** and **Shri Om Prakash Tiwari,** workman.

[No. L-42025/07/2026/115-IR (DU)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

NO. CGIT/LC/R/39/2022

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Om Prakash Tiwari,

At - Village – Kamrid,

Via – Bamni, Thana – Saragaon,

Distt. Janjgir – Champa (CG) - 495660 **Workman**

Versues

The Superintendent of Post Master,

Head Post Office, Tilak Nagar,

Bilaspur, Distt. Bilaspur (CG) - **Management**

AWARD

Passed on this 17th day of February, 2026

As per letter dated 17/30.08.2022 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **RP-8(1-1)/2022-ES.III** dt. 17/30.08.2022. The dispute under reference relates to:

"***Whether the action on the part of the Management of Superintendent of Post Bilaspur, Head Post Office, Bilaspur (Chhattisgarh) in terminating the services of workmen Shri Om Prakash Tiwari, Branch Post Master (BPM) Kamrid without giving any prior notice and Retrenchment Compensation is legal and justified? If not, to what relief the workman is entitled to?***"

Case of the workman is mainly that, he was appointed on 17.08.1998 by Management as Branch Post-master and continuously worked till 09.11.2020 for more than 240 days in every year. His services were terminated by the Department after 22 years of continuous service on 04.03.2014. He filed a petition before the Central Administrative Tribunal which was Petition No. 203/002702/2014, allowed after hearing. His termination was set-aside. The Department ceased his salary payment from 04.09.2018. He filed another Petition No. 203/00853/2019 before the Central Administrative Tribunal. Department was directed to resume salary payments during the petition. His services were again discontinued without any notice or compensation and without following any procedure under the Act which is unjust, illegal and arbitrary. He raised a dispute in this respect which could not be conciliated, hence this reference.

According to the Workman, this action of Management in terminating his services is unjust, illegal and arbitrary. He is out of job since the date of his termination, he has prayed that holding termination of his services by the Department from 09.11.2020 unjust and against the Act, he be held entitled to be reinstated with all back wages and benefits and also with continuity of service.

The Department has taken a case that one Laxmi Narayan Tiwari was working as Gramin Daak Sevak Branch Post-master. He was relieved for joining in Army Postal Services on deputation. The Workman is the brother of the Laxmi Narayan Tiwari and was engaged as a ***'Substitute'*** vide Superintendent Bilaspur order dated 17.08.1998 according to the provisions contained under GDS (Conduct and Employment Rules). It was specifically mentioned in the letter that it was a substitute arrangement, purely temporary till further orders and the Substitute will have no right over the post. Also that, his services could be dispensed with any time without notice. The Workman accepted these terms and joined as a Substitute GDS BPM. His services were dispensed with vide order dated 04.03.2014. He preferred a petition before Central Administrative Tribunal which set-aside his termination vide its order dated 25.08.2017 and directed the Department to continue him till regularly recruited BPM is appointed. The Department filed Writ Petition No. 3797/2018 before the Hon'ble High Court of Chhattisgarh at Bilaspur. This petition was dismissed with an observation that the ***Tribunal did not made any right in favour of the Respondent Workman and has given full freedom to the Department to fill up the post and then dispensed the services of the Respondent***. It is in compliance of the said order, the Workman was re engaged on 04.09.2018 as a Substitute BPM till a regularly recruited candidate joined.

It is further the case of the Department that, after conducting recruitment process for regular appointment, one Dinesh Kumar Dewangan has been appointed as Regular Post-master cum vide order dated 10.11.2020. Since, the regular appointee is available; the services of the Applicant Workman were rightly dispensed with in the light of the aforesaid orders of Central Administrative Tribunal and Hon'ble High Court. It has also been pleaded that the Workman is not a '*Workman*' under the Act, hence the reference is not cognizable by this Tribunal. He was simply a 'substitute appointee' whose services were dispensed with after regular appointee came in. Hence, the action of the

Management in dispensing his services is fully justified in law. Department has requested that the reference be answered against the Workman.

In evidence, the workman filed his affidavit as his examination-in-chief. He has been cross-examined by the Department. The Department has filed affidavit of its witness Vinay Kumar Prasad as his examination-in-chief. He has been cross-examined by the Workman side. The Department has also filed appointment letter dated 17.08.1998 of the Workman, order of Central Administrative Tribunal dated 25.08.2017, order of ***Hon'ble High Court of Bilaspur in W.P. No. 3797/2018*** passed on 31.07.2018, all admitted by the Workman, hence marked Exhibits. The Workman filed photocopy pass-book, order of his termination dated 09.11.2020.

I have heard arguments of Learned Counsel Mr. Sidharath Verma for Workman and Mr. S.K. Mishra Learned Counsel for the Department. Both the sides have filed written submissions & have gone through the written submissions as well records.

On perusal of record in the light of rival submissions, following issues came up for determination in the case in hand.

1. Whether, the applicant is a 'workman' under Section 2(s) of the Act?

2. Whether, the termination of the services of the Applicant is just and

legal and in accordance with the Act?

3. Whether, the applicant is entitled to any relief in the case in hand?

Issue No. 1 & 2 –

It has been submitted by the Learned Counsel for the Department that the Applicant is not a *workman* under the Act. He has referred to judgment of Hon'ble Supreme Court in the case of ***General Management, Telecom Vs. A. Srinivasa AIR (1998) SC 656*** and ***Sub-Divisional Inspector of Post Vaikam and Other Vs Theyyam Joseph and others (1996) Vol. 8 SCC 489*** in this respect. He submits that though in the case of *General Manager Telecom (supra*) Hon'ble Supreme Court has over ruled its judgment in the case of *Theyyam Joseph (supra)* and has held that the Department of Telecommunication is an 'Industry' under the Act but *observation under Para 11 of the Judgment, is the Theyyam Joseph (supra) have not been overruled*. He has referred to following observations of Hon'ble Supreme Court in this respect.

"It would thus be seen that mode of recruitment, conditions of services, the scale of pay and conduct rules regulating service conditions of Extra Department Agents are governed by statutory regulation. It is now settled law of this Court that these employees are Civil Servants regulated by these Conduct Rules."

Therefore, by necessary implication, they do not belong to category of '*Workman'* attracting provisions of the Act. The approach adopted by Tribunal therefore is clearly illegal.

Learned counsel for Department has further referred to ***Judgment of Hon'ble High Court of M.P. in the case of Himanshu Shekhar Giri Vs. Postmaster General W.P. No. 3175/2016*** and ***Senior Superintendent of Post Offices Jabalpur Division V.s. Kishan Lal Mehra M.P. No. 3247/2024*** in which the aforesaid principle have been relied upon and the Extra Departmental Agents have been held not to be a workman under the Act.

On the other hand, the Learned Counsel for the Applicant has referred to Circular issued by the Government of India ***Circular No. 1730/2019-GDS Government of India, Ministry of Communication Department of Post GDS Section*** on 14.02.2020 which **is Gramin Daak Sevak (Conduct and Engagement Rules, 2020)**. According to ***Clause 1*** of these Rules, they shall come into force on and from the date of their Circulars.

Clasue 3(D) defines Gramin Daak Sevak as follows-

"Gramin Daak Sevak means –

(1) A Branch Postmaster;

(2) Assistant Branch Postmater;

(3) A Daak Sevak.

Clause 3-A mentions about the terms and conditions of engagement. Learned Counsel has referred to Clause 3A(5&6) which are being reproduced as follows –

"3(A) Terms and conditions of engagement –

5) A Centre shall be decide the Civil Servant of the Union.

6) A Centre shall not claim to be at par with Central Government Employees."

Learned Counsel further submits that, the law, which was laid down by Hon'ble Supreme Court in the *Theyyam Joseph case (supra)* and relied by Hon'ble High Court of M.P. in the cases referred to by the Department, was with respect to the position before 2020, which is now changed by the new Recruitment Rules of 2020. These Rules specifically mentions that a Gramin Daak Sevak shall not be Civil Servant of the Union and will claim no parity with Central Government employees.

Learned Counsel for Department has referred to the ***Department of Posts, Gramin Daak Sevak (Conduct and Engagement Rules, 2001)*** which also prescribe that the Gramin Daak Sevak shall be outside the Civil Service of the Union and shall not claim to be at par with Central Government employees and submits that these observations were even before in the Recruitment Rules of 2001 and earlier also.

Learned Counsel for Workman has also submitted that the judgment in the **Theyaam Case (Supra**) was overruled completely by Hon'ble Supreme Court in its three judge bench judgment in **Shriniwasa Case** (supra) and secondly, in the light of principles of law laid down by Hon'ble **High Court of MP in the Case of MP State Road Transport Corporation V.s. Hiralal Orchelal (1979) SCC Online MP 114.** It has been laid down in this case that, the Industrial Employment Standing Orders and statutory regulations both are applicable but when there is a inconsistency between them, the standing order shall prevail over the service regulations. Learned Counsel has referred to another judgment of Hon'ble High Court of M.P.in the case of **Union of India V.s. P.O. CGIT (1994) MPLJ 1970** in which it has been held that, the Central Ordinance Depot is severable from the defense department and is an 'industry' under the Act. The Learned Counsel further submits that, workmen working in the aforesaid depot were also governed both by Central Services Temporary Service Rules as well as Industrial Disputes Act and in case of termination, both the rules are Act which required to be complied with. Further held, that the services rules as well the Act can co-exist without any conflict and normally because of workman is governed under Section 309 of Constitution, it does not exclude the applicability of the Act, hence, it is possible that the person holding a Civil Post may also be a Workman as defined under the Act.

The relevant portion of the said judgment, referred to, is being reproduced as follows: -

"7. *The second ground urged that the rules framed under Article 309 of the Constitution for the Central Government employees exclude the application of the provisions of the Industrial Disputes Act has little merit, if the provisions of the rules and the Act are examined critically. The learned counsel for the workmen is right in submitting that the Full Bench decision of the Kerala High Court (supra), which has applied the theory of implied exclusion of the Act by the rules, does now lay down the correct law and ignores the provisions of sections 9A and 25J of the Industrial Disputes Act which clearly indicate application of the provision of the Act to Central Government employees whose service conditions are also regulated by the rules framed under Article 309 of the Constitution. Before deciding the question raised of the applicability of the Industrial Disputes Act to the Central Government employees governed by the service rules framed under Article 309 of the Constitution, it would be necessary to examine the relevant provisions of the Act and the Rules. Rule 5 framed under Article 309 of the Constitution of India, on which action of termination of service of the workmen was based, reads as under:—*

*"**5.Termination of temporary service**. — (1)(a) The Services of a temporary Government servant who is not in quasi-parmanent service shall be liable to termination at any time by a notice in writing given either by the Government servant to the Appointing Authority or by the Appointing Authority to the Government servant:*

(b) the period of such notice shall be one month:

Provided that the service of any such Government servant may be terminated forthwith and on such termination the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be, for the period by which such notice falls short of one month.

8. *Section 9A of the Act requires that an employer of an industry who proposes to effect any change in the conditions of service applicable to the workmen in respect of any matter specified in the Fourth Schedule, shall effect such change only after giving a notice of such change to the workman. Proviso (b) to section 9A of the Act, however, exempts service of such notice on the workman, if his services are governed by the statutory rule or rules framed under Article 309 of the Constitution of India. Section 9A of the Act reads:—*

*"**9A.Notice of change**. — No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change.*

(a) without giving to the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected, or

(b) within twenty-one days of giving such notice;

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement or award; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules, or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply".

9. *Section 25-J of the Act as contained in Chapter VA on the subject 'Effect of laws inconsistent with this Chapter' was inserted by the Amendment Act in the year 1963, with effect from 24-8-1963. Section 25F lays down a condition precedent to the retrenchment of workmen and requires service of minimum one month's notice containing reasons for retrenchment or payment of wages in lieu of the said notice. It also requires payment of retrenchment compensation at the rate prescribed and also the service of notice on the appropriate Government in the prescribed manner. Section 25F of the Act is also quoted hereunder:*

*"**25F. Conditions precedent to retrenchment of workmen**.— No workmen 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".

The provisions of section 25J starts with non-obstante Clause and gives an over-riding effect to the provisions contained in Chapter VA of the Act, which includes section 25F, over all laws including the standing orders made under the Industrial Employment (Standing Orders) Act, 1946. Under the proviso to section 25J, provisions of any other Act or Rules, which provide for better benefit to the workman than those contained in Chapter VA of the Act, are saved. Section 25J is reproduced below for its proper understanding and interpretation:

*"**25J.** Effect of laws inconsistent with this Chapter. —(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act, 1945 (20 of 1946):*

Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders, or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the lime being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers any workman in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter".

Having thus examined the relevant provisions quoted above, contained in the rules framed under Article 309 of the Constitution and contained in the Act, it is not possible for this Court to accept the contention, advanced on behalf of the employer, that the rules framed under Article 309 of the Constitution exclude the application of the provisions of the Act. As has been seen above, the opening part of sub-section (1) of section 25J containing non-obstante clause uses the expression "notwithstanding anything inconsistent therewith contained in any other law".

10. *In the opinion of this Court, the above expression and, the use of the words 'any other law' would include the statutory rules framed under Article 309 of the Constitution of India to regulate the terms and conditions of the Government servants. The word 'law' has to be given general and wide meaning to include the rules framed under the constitutional provisions. The rules framed under Article 309 of the Constitution are legislative in character, and they are laws for all purposes. This Court also does not find any inconsistency in the provisions of rule 5 and the provisions contained in section 25F of the Act. Rule 5 requires service of notice or payment in lieu thereof for terminating the services of a temporary Government servant. Section 25F of the Act also provides for service of notice or payment in lieu thereof; but in addition, it also provides for payment of retrenchment compensation. The two provisions in the rules and the Act are not inconsistent; but both can be made applicable and are supplementary to each other. The theory of implied exclusion applied by the Full Bench of Kerala High Court cannot be accepted, in view of the express provisions of section 9A and section 25-J of the Industrial Disputes Act. The provisions contained in section 9A and particularly the proviso (b) thereunder show a clear legislative intent that a Government servant, if he falls within the definition of a 'workman', defined under the Act, would be governed both by the provisions of the*

rules framed under Article 309 of the Constitution of India or under any other enactment as also by the provisions of the Industrial Disputes Act. Dissenting from the view expressed by the Full Bench of Kerala High Court in the case of Director of Postal Services (supra). In the opinion of this Court, the service conditions of the workmen in this case are governed both by the rules framed under Article 309 of the Constitution and the provisions of section 25F of the Industrial Disputes Act."

Since, the judgment in the Theyyam case (Supra) is by Hon'ble Supreme Court, the ***obiter dicta*** as well as *ratio decidendi* both shall be binding on this Tribunal.

In the light of above discussions, the Applicant is held not to a Workman under ***Section 2(s)*** of the Act.

Issue No. 1 is answered accordingly.

Issue No. 2 -

Learned Counsel also submits that even the person, who is said to be regularly appointed by the Department is not in fact a regularly appointed employee. His provisional engagement letter dated 10.11.2020 has been filed by the Applicant which shows that he has been provisionally engaged. Thus, according to Learned Counsel for Applicant, since the so called regular appointee is not a regular appointee then he is also provisionally engaged, the Department could not terminate the services of the Applicant in the light of aforesaid order of Central Administrative Tribunal and Hon'ble High Court, which provided that services of the Applicant could be terminated after regular appointee comes in. The Department has also not filed any appointment letter of the so called regular employee Dinesh Kumar Dewangan to show that he has been regularly appointed on the said post as claimed by the Department.

Hence, the case of the workman that the so called regular appointee Dinesh Kumar Dewangan is also a provisional appointee as his appointment letter speaks is held proved. Consequently, this action of Department in terminating the services of the Workman on the pretext of appointment of Dinesh Kumar Dewangan who is himself on provisional appointment is held in violation of direction of the Central Administrative Tribunal in the aforesaid petition and thus unjust in law.

Issue No. 2 is answered accordingly.

Issue No. 3-

In the light of findings recorded in Issue No. 1 and 2 the Applicant workman is held entitled to no relief because the reference itself is not cognizable by this Tribunal.

Issue No. 3 is answered accordingly.

In the light of above discussion and findings the reference is answered as follows.

AWARD

Holding that the Workman is not a 'workman' under the Act, the reference is held not cognizable by this Tribunal.

DATE:- 17.02.2026

P.K.SRIVASTAVA, Presiding officer

नई दिल्ली, 1सितम्बर, 2026

का.आ. 2023.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केंद्रिय लोक निर्माण विभाग** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **दिल्ली- *II*** के पंचाट **(147/2022 ,148/2022, 149/2022, 150/2022, 151/2022)** प्रकाशित करती है।

[सं. एल- 12025/01/2026- आई आर (बी-I)-215]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2023.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 147/2022,148/2022, 149/2022, 150/2022, 151/2022*)* of the *Cent. Govt. Indus. Tribunal-cum- Labour Court Delhi -II* as shown in the Annexure, in the industrial dispute between the management of Central Public Work Department and their workmen.

[No. L-12025/01/2026- IR(B-I)-215]

SALONI, Deputy Director

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, No. 2 DELHI

ID No. 147/2022

Sh. Veera Malaya, S/o Sh. Punnu Swami,

R/o- G-919, Shakur Pur J.J Colony,

Anandvas Shakur Pur, Delhi-110034.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi- 110019.

ID No. 148/2022

Sh. Sanju Ojha, S/o Sh. Shankar Lal,

R/o-House No. 110, Gali No. 38, West Karawal Nagar,

Delhi-110094.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi- 110019.

ID No. 149/2022

Sh. Mithilesh Kumar, S/o Sh. Bachan Singh,

R/o-B-26, Gazipur Dairy Farm, Gali No.-02,

Delhi-110096.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi- 110019.

ID No. 150/2022

Sh. Ashok Kumar, S/o Sh. Dharam Veer,

R/o- G-919, Shakur Pur, New Delhi-110034.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi- 110019.

ID No. 151/2022

Sh. Veeksh Kumar, S/o Sh. Sarvesh Kumar,

R/o-House No. 110, Gali No. 38, West Karawal Nagar,

Delhi-110094.

Through- All India General Mazdoor Trade Union,

170, Bal Mukund Khand, Giri Nagar, Kalkaji,

New Delhi- 110019.

VERSUS

1. The Executive Engineer,

Central Public Work Department (CPWD),

Sub Division-01, Sansad Nirman Mandal-III,

North Avenue, New Delhi-110001.

2. Niranjan Kumar Garg & Sons,

Through- Sh. Amit Garg (Proprietor),

Plot No. 108, Vardhman Taru Plaza (L.S.C),

CU Market, Pitam Pura, New Delhi-110034.

Item No. 11 to 16

I.D. No. 147/2022 to 151/2022

13th, April, 2026

Present:

Sh. R.B Singh, Ld. AR along with the Claimants.

None for the management-1.

Sh. Anjani Kumar Chaudary, Ld. AR for the management-2.

These are five cases filed by the different workman against the same respondents. Having common respondents and same cause of action, these cases are taken together for purpose of recording the proceedings.

Matters are listed for examination in chief in ID No. 150/2022 (Ashok Kumar vs. CPWD), and for cross-examination of all the claimants. However, AR for the claimants as well as AR for the Management-2, submitted that the parties have amicably settled the dispute for a full and final settlement.

Statements of all the workmen have been recorded separately in this regard.

In view of the statements made by the parties and the settlement arrived between the claimants and the management-2, claims of the claimants stand disposed of as settled in respect of their claims under question. Awards are passed accordingly. A copy of this order is placed in each of the file. Records of these files are consigned to record room.

ATUL KUMAR GARG, Presiding Officer.

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2024.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ़ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं I दिल्ली के पंचाट (288/2018) प्रकाशित करती है।

[सं. एल - 12011/144/2018- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2024.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 288/2018*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No.* I *Delhi* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-12011/144/2018– IR(B-I)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI – 1

ID No. 288/2018

1. Central Bank Staff Association,
   Uttar Pradesh, Through General Secretary,
   5/17/34, Shakti Nagar Colony, Devkali, Faridabad, Uttar Pradesh.
2. Pradeep Kumar Verma
   S/o Sh. Ram Avtar Verma,
   R/o 518-A, Street No. 5,
   Sainik Colony, Roorkee, Haridwar.

Versus

1. Central Bank of India,
   Central Office, Chandramukhi,
   Nariman Point, Mumbai Through CMD.
2. Chief Manager (Personal),
   Central Bank of India,
   Central Office, Chandramukhi, Nariman Point, Mumbai
   Regional Manager, Central Bank of India, Regional Office,
   Jail Chungi, Meerut, U.P.

Argued by: Sh. D.M. Sharma, Authorized Representative for the petitioners.
Sh. A. R. Verma, Authorized Representative for respondents.

AWARD

1. Briefly stated, the case of the petitioners was to be following effect. The petitioner no. 2 had joined the services of the respondents as a clerk in November, 1993. After the registration of an FIR by the police against the wife of the petitioner no. 2, the petitioner no. 2 etc, Central Bureau of Investigation had filed a charge sheet against the petitioner no. 2 and certain other persons in the court of ADJ/Special Judge, Anti- Corruption, Dehradun. On 22.09.2005, the petitioner no. 2 was suspended by the respondents. A regular charge sheet was also issued to the petitioner no. 2 by the respondents. A regular departmental enquiry was conducted against the petitioner no. 2 and the Enquiry Officer had submitted his enquiry- report to the respondents. Vide order dated December 09, 2015, the respondents had removed the petitioner no. 2 from services but he was held entitled to the superannuation benefits as per the relevant rules. In an appeal filed by the petitioner no. 2 against the above-said order, the Appellate Authority/General Manager had modified the impugned punishment order dated December 09, 2015. Vide order dated 05.08.2016, the Appellate Authority had directed that the petitioner no. 2 be brought down two lower stages in the scale of pay for a period of ten years under Para 6(e) of the Memorandum of Settlement. Vide letter dated 08.08.2016, the respondents had revoked the suspension of petitioner no. 2 but directed that he will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months as per policy. Through the petition, the petitioners have prayed that the petitioner no. 2 should be held entitled to balance salary with increase in salary from 18.08.2005 till date, full salary for removal period from 09.12.2015 to 12.08.2016 with all increments and benefits, regularization of his services, medical leave, earned leave and other benefits during the suspension period till date.

2. Respondents had contested the petition by filing a written statement. The respondents had, inter alia, pleaded to the following effect. In view of the registration of an FIR and filing of a charge sheet by the Central Berau of Investigation against the petitioner no. 2 and others, the petitioner no. 2 was suspended by the respondents. Vide letter dated 29.08.2012 the petitioner no. 2 was duly informed that his suspension was revoked subject to the condition that the aspect of payment of salary for the period of suspension and granting of other service benefits for the said period will be decided after disposal of the criminal case pending against him. Vide letter dated 08.08.2016, the petitioner no. 2 was informed by the respondents that his removal from service was revoked from the date of his reporting to new place of posting and he will not get any monetary benefits for his removal period and would be debarred from any special allowance for the period of twenty four months as per policy. Respondents have prayed that the petition of the petitioners should be dismissed with costs.

3. On the pleadings of parties the following issues were framed:-

1. Whether the proceedings is maintainable?

2. Whether the action of the management Bank in withholding the subsistence allowance and other benefits of the workman for the period of suspension after revocation of suspension order is legal and justified?

3. Whether the claimant is entitled to reinstatement in service without any condition as has been imposed by the appellate authority of the management Bank?

4. To what other relief the claimant is entitled to?

4. In the evidence of petitioners, the petitioners had tendered the affidavit Exhibit WW1/A of Sh. K. K. Rastogi, Exhibit WW2/A of Sh. Pradeep Kumar Verma besides tendering the documents Exhibit WW1/1, Exhibit WW1/2, Exhibit WW2/1 to WW2/11 only.

5. Despite the grant of many opportunities, the respondents had not adduced any evidence in support of their case.

6. I have heard the learned Authorized Representatives (for short the A/Rs) for the parties.

7. Learned A/R for the petitioners has argued that the petitioner no. 2 was wrongfully charge-sheeted and punished by the respondents without any legal basis. Learned A/R for the petitioners has further argued that the Appellate Authority vide his order dated 05.08.2016 had reduced the punishment of the petitioner no. 2 by stating that the petitioner no. 2 be brought down two lower stages for a period of ten years only. Learned A/R for the petitioners has pleaded that the respondents had wrongfully ordered that the petitioner no. 2 will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months. Learned A/R for the petitioners has prayed that the respondents be directed to release the balance salary of petitioner no. 2 with increase in salary from 18.08.2005 to till date, release the full salary of petitioner no. 2 for the removal period from 09.12.2015 to 12.08.2016 alongwith all increments and benefits, regularize the services of the petitioner no. 2 from 15.11.1993 to till date and give him all the benefits including medical leave, earned leave etc. during the suspension period from 15.08.2005 to till date.

8. Leaned A/R for the respondents has argued that the petitioner no. 2 was charge-sheeted and suspended by the respondents due to the registration of an FIR and filing of a charge sheet by the Central Bureau of Investigation against the petitioner no. 2. Learned A/R of the respondents further argued that vide letter dated 29.08.2012 the petitioner no. 2 was duly informed that his suspension was revoked subject to the condition that the aspect of payment of salary for the period of suspension and granting of other service benefits for the said period will be decided after disposal of the criminal case pending against him. Learned A/R for the respondents has pleaded that vide letter dated 08.08.2016 the petitioner no. 2 was informed that his removal from service was revoked from the date of his reporting to new place of posting and he will not get any monetary benefits for his removal period and would be debarred from any special allowance for the period of twenty four months as per policy. Learned A/R for the respondents has prayed that the petition of the petitioners had no merits and should be dismissed with costs.

9. Issues no. 1 to 4

Issues no. 1 to 4 in this case involve common questions of law and facts and are, therefore, being disposed off together.

10. For a just and proper decision of this case, it is necessary to refer to certain facts that are admitted by the parties to this case.

11. In the present case, consequent upon the registration of an FIR by the police against the wife of the petitioner no. 2 and the petitioner no. 2. Central Bureau of Investigation had filed a charge sheet against the present petitioner no. 2 and some other persons in the court of ADJ/ Special Judge, Anti-Corruption, Dehradun. On 22.09.2005, the petitioner no. 2 was suspended from service by the respondents. A regular departmental enquiry was conducted against the petitioner no. 2 and the Enquiry Officer had duly submitted his enquiry report to the respondents. Vide order dated December 09, 2015, the respondents had removed the petitioner no. 2 from services but he was held entitled to the superannuation benefits as per the relevant rules. The petitioner no. 2 had preferred an appeal against the above-said order dated 09.12.2015 of the respondents no. 3 before the Appellate Authority/General Manager. Vide order dated 05.08.2016, the Appellate Authority had modified the impugned punishment order dated December 09, 2015 and directed that the petitioner no. 2 be brought down two lower stages in the scale of pay for a period ten years under Para 6(e) of Memorandum of Settlement dated 10.04.2002. Vide letter dated 08.08.2016, the respondents had revoked the suspension of the petitioner no. 2 but directed that he will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months as per policy.

12. In the background of the above-said facts, the order dated 05.08.2016 of the Appellate Authority has attained finality qua the punishment to be awarded to the petitioner no. 2. Now the respondents are bound to award punishment to the petitioner no. 2 strictly in accordance with the order dated 05.08.2016 of the Appellate Authority. It need not be emphasized that the final order dated 05.08.2016 of the Appellate Authority would override the previous punishment order dated 09.12.2015 of the respondents no. 3. Now the only punishment the respondents could have awarded to the petitioner no. 2 was to bring him down two stages lower in his pay scale for a period of ten years. It is important to observe that this order dated 05.08.2016 of the Appellate Authority does not specify as to from which date the punishment awarded to the petitioner no. 2 was to take effect. In this background, it would be presumed that the Appellate Authority held intended that the aforesaid punishment would take effect with the date of the order i.e. 05.08.2016.

13. Once the Appellate Authority has passed the final punishment order dated 05.08.2016, the respondents had no choice but to implement the above-said order dated 05.08.2016 of the Appellate Authority. Therefore, the plea of the respondents that the respondents would decide the aspect of payment of salary alongwith other service benefits for the suspension period only after the final disposal of the criminal case pending against him has no substance.

14. Under these circumstances, the respondents were clearly not justified in withholding the balance salary of petitioner no. 2 from 18.08.2005 till date, withholding the full salary of petitioner no. 2 for the removal period from 09.12.2015 to 12.08.2016 alongwith other service benefits during the suspension period. The petitioner no. 2 is clearly entitled to the release of the above-said arrears of salary alongwith other service benefits for the relevant periods.

15. Issues no. 1 to 4 stand answered in terms of the observations made above.

16. Hence, an Award is hereby passed directing the respondents to comply with the order dated 05.08.2016 of the Appellate Authority and thereafter, pay the balance salary with effect from 08.08.2005 onwards alongwith full salary for the removal period from 09.12.2015 upto 12.08.2016 to the petitioner alongwith all the service benefits including leave, increments etc. The respondents will also pay the interest of 6% per annum upon all the arrears of salary from the date of accrual upto the date of realization. Reference made by the Government of India is answered accordingly.

17. A copy of this Award be also sent to the Government of India as per rules. Case file be consigned to the Record Room.

Ajay Kumar Jain, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2025.— 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 44/2002) को प्रकाशित करती है,

[सं. एल.12025/01/2026–आई.आर.(बी–I)-218]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2025.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 44/2002) 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)-218]

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 May, 2026

INDUSTRIAL DISPUTE L.C.No. 44/2002

[Old ITID(C) No. 25/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Kalla Srinivasa Rao,

S/o ramu,

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 Kalla 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. 25/2001, 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. 44/2002.

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 1986 to 1995, and has rendered unblemished service spreading over a period of about 9 years. The Respondent has terminated services of Workman by oral orders with effect from May, 1995. 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 W2. Further, during his cross examination, MW1 has proved documents Ex.W3 to Ex.W5. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 and Ex.W2 are the service certificates. Ex.W2 is the employment notification. Ex.W3 is the letter to CGM (Per) dated 10.10.1990. Ex.W4 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W5 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 Kalla Srinivasa Rao, a Messenger with effect from May, 1995 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 May, 1995 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 May, 1995 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., May, 1995. The witness WW1 in chief examination has stated that he had worked for 566 days in the Respondent organization from 1986 to 1995. 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., May, 1995. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 81 days in the branch during the year 1986. He had worked for 485 days in total which was supported by Ex.W2. 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., May, 1995. 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 14.5.86 to May, 1995, 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., May, 1995. 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., May, 1995. 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 May, 1995 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., May, 1995.

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 Kalla Srinivasa Rao, Ex. Messenger by way of oral orders w.e.f. May, 1995 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 May, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Kalla Srinivasa Rao	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, 1 सितम्बर, 2026

का.आ. 2026.— 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 33/2003) को प्रकाशित करती है,

[सं. एल.12012/203/2002–आई.आर.(बी–I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2026.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 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 workmen.

[No. L-12012/203/2002- 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 10th day of June, 2026

INDUSTRIAL DISPUTE No. 33/2003

Between:

Sri D. Dhanamjayudu,

S/o Balakotaiah,

Pedamuttive,

Movva (M & P.O.)

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-12012/203/2002- IR(B.I) dated 6.2.2003 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 D. Dhanunjayudu, Ex.Temporary Messenger, is justified? If not, what relief the workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 33/2003 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 1981 to 1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act of law and prayed to reinstate 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 10th 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, 1 सितम्बर, 2026

का.आ. 2027.— 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 10/2003) को प्रकाशित करती है,

[सं. एल.12012/207/2002–आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2027.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 10/2003) 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-12012/207/2002- 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. 10/2003

Between:

Sri M. Krishnudu,

S/o Kotayya,

Nimmagadda (P.O.)

Challapalli (M)

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-12012/207/2002- IR(B.I) dated 24/31.12.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workman. The reference is,

THE SCHEDULE

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

The reference is numbered in this Tribunal as I.D. No. 10/2003 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 19.11.87 to 1.4.1997 but, his services has been terminated without any reasonable ground or following any principle and in violation of provision of ID Act of law and prayed to reinstate 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 Witnesses examined for the

Petitioner	Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2028.— 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 11/2003**) को प्रकाशित करती है,

[सं. एल.12012/208/2002–आई.आर.(बी–I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2028.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 11/2003) 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-12012/208/2002- 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 14th day of May, 2026

INDUSTRIAL DISPUTE No. 11/2003

Between:

Sri A Sambasiva Rao,

S/o Venkaiah,

Penumaka (P.O.),

Tadipalli(M),

Guntur Distt. …. Petitioner

AND

The Asst. General Manager

State Bank of India,

Zonal Office, Region-II,

Tirupathi-517501 …. Respondent

Appearances:

For the Petitioner : Sri Macherla Rangaiah, Advocate

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/208/2002/IR (B.I) dated 24.12.2002 referred the following dispute between the management of State Bank of INDIA and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Industrial Tribunal. The reference is,

THE SCHEDULE

"Whether the action of the Management of State Bank of India, Vijayawada zone in terminating services of Sri A Sambasiva Rao, ex-Temporary Messenger is justified? If not what relief the workman is entitled?"

After receipt of the reference, it was numbered as ID No. 11/2003 and notices were issued to both the workman and the management.

2. Despite sufficient opportunity Petitioner did not file claim statement in support of his claim. It seems that he is not interested to prosecute his case. Therefore, a 'No Claim' award is passed. Reference is answered accordingly.

Award is passed. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant and corrected by me on this the 14th day of May, 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, 1 सितम्बर, 2026

का.आ. 2029.— 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 29/2002) को प्रकाशित करती है,

[सं. एल.12012/326/2001–आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2029.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 29/2002) 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-12012/326/2001- 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 13th day of April, 2026

INDUSTRIAL DISPUTE No. 29/2002

Between:

Sri Ch. Narasimlu,

S/o Estari,

R/o Madaram(V) Majedpally(P),

Warangal(M),

Medak Distt-502334. . … Petitioner

And

The Assistant General Manager,

State Bank of India,

(Personnel & HRD Department)

Local Head Office,

Bank Street, Koti,

Hyderabad – 500 095.

…..Respondent

Appearances:

For the Petitioner : Sri M. Rangaiah, Advocate

For the Respondent: Sri T. Koteswara Rao, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/326/2001-IR(B.I) dated 19.12.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

THE SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri Ch. Narasimlu, Temporary/Non-Messenger, SBI with effect from 31.3.1997 is justified? If not, what relief the applicant is entitled?"

After receipt of the reference, it was numbered as ID No. 29/2002 and notices were issued to both the Workman and the management.

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

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

consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal. The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.

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

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

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

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

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

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

3. The factual matrix of instant industrial dispute as narrated by the Workman in his claim statement is that the Petitioner herein was engaged by the Respondent Bank—State Bank of India—as a Non-Messenger (temporary employee). The Petitioner have joined the service of the Respondent Bank at the workman joined the services of the Management Institution as Non Messenger on 1987 to 1997 and rendered unblemished services spreading over a period of about 10 years, and by dint of hard work till his services were terminated by oral orders with effect from 1.4.1997. It is further submitted that Petitioner is suffering a lot because of poverty and unemployment, having old, aged parents, 3 sons, and 2 daughters and his wife is looking after household work. It is submitted that he could not secure any alternative employment ti1l 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 W12, including appointment letters, interview letters, and service certificates showing employment across various periods. The Respondent examined MW1, Sri Alluru Rama Rao, 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 Ch. Narasimlu, a Temporary/Non-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 Wargal Branch, on 1.1.1987 as a Non-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 at Wargal branch of the Respondent and Ex.W1 is the Service certificate for 42 days dated 17.08.1988. Ex. W2 is the Notification. Ex. W3 is the Call letter for interview. Ex. W4 is the panel list. Ex. W5 to Ex.W10 are the Service Certificates dated 22.4.93, 23.4.96, 24.10.95, 16.1.1998 26.7.96 and 19.03.1997. Ex. W11 is the notification issued to Employment Exchange. Ex. W12 is the Inspection and Audit Report dated 14.7.1999.

21. Further WW1 states that he worked for more than 240 days continuously in two separate spells in one year period of time and he worked for 76 days continuously during the period from April, 1996 to June, 1996, Ex.W9 is the certificate in this regard. Lastly, he had worked for 198 days from September, 1996 to March, 1997. 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 Non-messenger on temporary basis in the year 1987 for a period of 42 days. Further, witness states that he was not sponsored by any employment exchange. Further, witness states that he did not work continuously and he used to work depending upon availability of work in the bank. Further, in reply to the question put by the Respondent counsel in cross examination, WW1 states that it is true that he did not work for 240 days in any year in his service.

Month	Working days
2.4.1996 to 15.6.1996	76

September, 1996	29
October, 1996	31
November, 1996	30
December, 1996	31
January, 1997	31
February, 1997	28
March, 1997	18
Total	274

Thus, sum of working days as shown in the above table is 274 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 Non-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 2 separate spells in a period of one year. He worked for 76 days continuously during the period from April, 1996 to 15.6.1996, at Wargal branch. Ex.W9 is the certificate in this regard. Lastly, he had worked for 198 days at Trimulgherry branch, Secunderabad from September, 1996 to March, 1997. Whereas in the cross examination witness WW1 stood firm in respect of his statement given in chief examination. However, at one place in cross examination in reply to the question he had given the statement that it is true that he did not work for 240 days in any year. But in the suggestions given by Respondent counsel witness has stated that it is not true to say that he had never worked for 240 days in any year as stated by him. It is settled law that the statement of any witness cannot be read in isolation and the whole statement has to be taken into consideration while appreciating the evidence in the case. Whereas the claim of the Petitioner that he had worked for more than 240 days in a calendar year with the Respondent is fully corroborated by oral and documentary evidence produced by the Petitioner. Therefore, the contention of the Respondent in view of the above is not tenable. Further, documents filed by the Petitioner in evidence goes to reveal that during the period from 1986 upto the date of his termination i.e., 31.3.1997 workman had been engaged by Respondent for the work on number of times with the breaks, that goes to manifest that there was the work available in the Respondent bank and also need of engagement of the Workman. Therefore, the Workman was engaged by Respondent management on number of times during the long period of more than 10 years and artificial breaks in the employment of Petitioner has been created by the Respondent intentionally and deliberately in order to deprive the workman from the social security benefit provided under the ID Act. Therefore, in view of the above, the contention of the Respondent is not tenable.

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

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

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

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

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

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

time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of

appointment, the period of appointment, the availability of the job, etc. should weigh with the court for determination of such an issue.

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

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

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

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

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

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

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

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

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above in the matter at hand, the Workman has been terminated long back in the year 1997 from the service by the Respondent in contravention of the provision contained under Section 25-F. He was working as a temporary messenger and had not worked against a regular permanent or sanctioned post. Moreover, a period of 25 years has already been elapsed since termination of Petitioner from Respondent service. As per record, Petitioner had worked as temporary workman for a period of 10 years i.e., from 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 1.1.1987 till 31st March 1997. But the respondent has terminated his services without assigning any valid reason. Further, it is alleged that respondent has retained his juniors in his services and respondent has failed to take prior permission from government for any retrenchment. In the claim statement there is no iota of the pleading regarding regularization of Petitioner in the service of the respondent management. Further, in the relief clause of claim statement Petitioner has not mentioned prayer for the regularization in the respondent employment. The relief clause of the claim statement reads out as here under:-

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

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

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

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

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

This issue is answered accordingly.

AWARD

The action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Sri Ch. Narsimulu 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 13th day of April, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Ch. Narasimlu	MW1: Sri Aluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service certificate dated 17.08.1988
Ex. W2:	Photocopy of Notification
Ex.W3:	Photocopy of Call letter for interview
Ex.W4:	Photocopy of panel list
Ex.W5:	Photocopy of Service certificate dated 22.04.1993
Ex.W6:	Photocopy of Service certificate dated 23.4.1996
Ex.W7:	Photocopy of Service certificate dated 24.10.1995
Ex.W8:	Photocopy of Service certificate dated 16.01.1996
Ex.W9:	Photocopy of Service certificate dated 26.07.1996
Ex.W10:	Photocopy of Service certificate dated 19.03.1997

Ex.W11: Photocopy of Employment Exchange

Ex.W12: Photocopy of Inspection and Audit Report dated 14.7.1999

Documents marked for the Respondent

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

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

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

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

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

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

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

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

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

Ex.M10: Photocopy of statement of 1992 panel

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

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

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2030.— 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 91/2002**) को प्रकाशित करती है,

[सं. एल.12025/01/2026–आई.आर.(बी-I)-219]

सलोनी, उप निदेशक

New Delhi, the 24th September, 2026

S.O. 2030.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. LC. 91/2002) 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)-219]

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. 91/2002

[Old ITID(C) No. 17/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Maddila Ravi Kumar,

S/o Late Narayana,

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 Maddila Ravi Kumar 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. 17/2001, 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. 91/2002.

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 1987 to 1997, and has rendered unblemished service spreading over a period of about 10 years. The Respondent has terminated services of Workman by oral orders with effect from 18.1.1997. 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, 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 18.1.1997 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 18.1.1997 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 W2. Further, MW1 has proved documents Ex.W3 to Ex.W5. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 and Ex.W2 are the service certificates. Ex.W3 is the letter to CGM (Per) dated 10.10.1990. Ex.W4 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W5 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, Vizianagaram in terminating the services of Workman Sri Maddila Ravi Kumar, a Messenger with effect from 18.1.1997 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 1.4.1997. 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 18.1.1997 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 18.1.1997 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., 18.1.1997. The witness WW1 in chief examination has stated that he had worked for 466 days in the Respondent organization from 1988 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., 18.1.1997. 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 1987. Further, vide Ex.W2 he has worked for 392 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., 18.1.1997. 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 5.10.1987 to 17.1.1997, 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., 18.1.1997. 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., 18.1.1997. 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 18.1.1997 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. 1.4.1997. 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., 18.1.1997.

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 1.4.1997, 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 Maddila Ravi Kumar, Ex. Messenger by way of oral orders w.e.f. 18.1.1997 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 9th day of June, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

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

Documents marked for the Petitioner

Ex.W1 to:

Ex.W2: Photocopies of Service certificates

Ex.W3: Photocopy of letter to CGM (Per) dated 10.10.1990

Ex.W4: Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90

Ex.W5: 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, 1 सितम्बर, 2026

का.आ. 2031.— 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 46/2002) को प्रकाशित करती है,

[सं. एल.12025/01/2026/.आई.आर.(बी-I)-218]
सलोनी, उप निदेशक

New Delhi, the 1th September, 2026

S.O. 2031.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 46/2002) 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)-218]

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 May, 2026

INDUSTRIAL DISPUTE L.C.No. 46/2002

[Old ITID(C) No. 27/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Duvvanna Appalaraju,

S/o Narayana Rao,

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 Duvvanna Appalaraju 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. 27/2001, 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. 46/2002.

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 1985 to 1997, and has rendered unblemished service spreading over a period of about 12 years. The Respondent has terminated services of Workman by oral orders with effect from 5.1.1997. 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 1.4.1997 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. Further, through cross examination MW1 has proved documents Ex.W2 to Ex.W4. Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the employment notification. Ex.W2 is the letter to CGM (Per) dated 10.10.1990. Ex.W3 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W4 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 Duvvanna Appalaraju, a Messenger with effect from 5.1.1997 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 1.4.1997. 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 5.1.1997 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 5.1.1997 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., 5.1.1997. The witness WW1 in chief examination has stated that he had worked for 378 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., 5.1.1997. But as per the chief statement of witness WW1, he had worked continuously for 378 days in the branch during the years 1985- 1997. 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., 5.1.1997. However, no documents filed by the Petitioner to corroborate the averment of the claim statement nor proved by the statement of WW1 or any other witness's evidence. Thus, oral evidence 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., 5.1.1997. 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., 5.1.1997. 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 5.1.1997 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. 1.4.1997. 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., 5.1.1997.

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 1.4.1997, 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 Duvvanna Appalaraju, Ex. Messenger by way of oral orders w.e.f. 5.1.1997 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 19th day of May, 2026.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Duvvanna Appalaraju	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1: Photocopy of employment notification

Ex.W2: Photocopy of letter to CGM (Per) dated 10.10.1990

Ex.W3: Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90

Ex.W4: 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, 1 सितम्बर, 2026

का.आ. 2032.— 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 **नं I दिल्ली** के पंचाट (75/2019) प्रकाशित करती है।

[सं. एल.12011/02/2019/.आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2032.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.75/2019*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No.* I *Delhi* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/02/2019– IR(B-I)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1,

NEW DELHI.

ID No. 75/2019

Regional Secretary, State Bank of India Staff Association (Delhi Circle) 1B/4181, Street No. 48, Near Sharda Nagar Chowk, Saharanpur (UP)-247001.

…Claimant

Versus

1. Regional Manager, State Bank of India, Regional Office, Region-04, Mangal Pandey Nagar, Near CCS University Garh Road, Meerut(UP)-250002.
2. Dy. General Manager, State Bank of India, 111-112, Tower-A, The Corrumthum, A-41, Sec-62, Noida (UP)-201301.

…Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-L-12011/02/2019 (IR(B-I)) dated 21.02.2019 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:

THE SCHEDULE

'Whether the action of the management of SBI, Meerut for not providing Journey day to the workman Sri Ananad Kumar is correct? If not what other relief he is entitled to?'

Regional Secretary, SBI Staff Association Vs. Regional Manager, SBI & 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. 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, statement of claim was filed. Thereafter, none has appeared on behalf of the claimant. 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: 09.03.2026 Ajay Kumar Jain, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2033.— 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 गोली सुब्बाइअह** के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, **हैदराबाद** के **पंचाट (13/2003)** प्रकाशित करती है।

[सं. एल.12025/01/2026/आई.आर.(बी-I)-220]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2033.— : In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the **Award (Ref. 13/2003*)*** 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 Goli Subbaiah.**

[No. L-12025/01/2026-IR(B-I)-220]

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. 13/2003

[Old ID No. 16/1999 of Labour Court, Guntur]

Between:

Sri Goli Subbaiah,

S/o Venkateswarlu,

Near Bhavana Rushi Temple,

Santha bazar, Chirala (P.O.)

Prakasam 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 Manager,

State Bank of India,

Zonal Office,

Tirupathi.

4. The Branch Manager,

State Bank of India,

Paruchur (P.O.),

Prakasam district. …..Respondents

Appearances:

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

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Goli Subbaiah 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.16/1999, 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. 13/2003.

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 6.9.1985 to June, 1992, 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 June, 1992. 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 June, 1992 which is arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India.

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

14. Per contra, Respondent had filed counter and made a contentions that the reference is not tenable and contrary to the provisions of I.D. Act, 1947. Respondent submitted that to tide over severe sub-ordinate staff constraints which arose out of leave vacancies, exigencies, etc., and also owning to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff, the Respondent bank used to engage sub-ordinate staff

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

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

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

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

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

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

20. In order to fortify his claim Workman has examined himself as WW1 and also filed documents in evidence which has been exhibited as Ex.W1 to W6. Further, the Workman has filed photocopies of documents in support of his claim which are discussed as under:-

Ex.W1 is the notification. Further Ex.W2 is the legal notice. Ex.W3 to Ex.W5 are the postal acknowledgements. Ex.W6 is the interview call letter.

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 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, Paruchuru branch in terminating the services of Workman Sri Goli Subbaiah, a Messenger with effect from June, 1992 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 June, 1992. 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 June, 1992."

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 June, 1992 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 June, 1992 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 June, 1992 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 June, 1992 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 June, 1992 without notice of salary or compensation in lieu thereof. Before examining the claim of the Workman on merit it would be apposite to reproduce the provision contained under section 25 F:-

Section 25F provides:-

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

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

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

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

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service which provides

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

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

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

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

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

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

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

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

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

"It was the case of the Workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

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

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

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

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

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

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

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

29. Now, in view of the provision contained under Section 25 F and law laid down by the Hon'ble Apex Court, we have to examine whether the Workman has discharged his initial burden of proof in respect of his claim of 240 days continuous service in a calendar year just preceding from the date of his termination i.e., June, 1992.

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 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., June, 1992. 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 June, 1992 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. June, 1992. 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., June, 1992.

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 June, 1992, therefore it was directed to issue suitable instructions not to make temporary appointments from June, 1992. 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 June, 1992 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 was not appointed as per the recruitment selection procedure…. Further, witness states*, "I do not have panel list."….*

"I am not aware of the settlments between the federation and the Management."

Further witness states*, "I am not having any documents to show now 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 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 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 Goli Subbaiah, Ex. Messenger by way of oral orders w.e.f. June, 1992 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 Goli Subbaiah	NIL

Documents marked for the Petitioner

Ex.W1:	Photocopy of News paper advertisement/ notification
Ex.W2:	Photocopy of legal notice
Ex.W3 to Ex.W5:	Photocopy of postal acknowledgments
Ex.W6:	Photostat copy of interview call letter
Ex.W7:	Photocopy of Service certificate

Documents marked for the Respondent

NIL

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2034.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **केंद्रिय लोक निर्माण विभाग** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं I दिल्ली** के पंचाट (05/2022) प्रकाशित करती है।

[सं. एल.42011/153/2021-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2034.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.05/2022) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No.* I *Delhi* as shown in the Annexure, in the industrial dispute between the management of CPWD and their workmen.

[No. L-42011/153/2021– IR(B-I)]

SALONI, Deputy Director

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1,

NEW DELHI.

ID No. 05/2022

Shri Govind Ram, rept. by All India CPWD Mazdoor Union 4823, Balbir Nagar Extension, Gali No.13, Shahdara, Delhi- 110032. …Claimant

Versus

The Director General, CPWD Nirman Bhawan, New Delhi-110011. …Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No-L-42011/153/2021 (IR(DU)) dated 14.12.2021 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:

THE SCHEDULE

'Whether employer-employee relationship exists between the disputant worker Sh. Govind Ram and the management under ID Act, 1947? If yes, whether the demand of All India Central P.W.D. (MRM) Karamchari Sangathan (Regd.) vide letter dated 13.11.2020 in respect of Sh. Govind Ram regarding reinstatement and other benefits against the management of CPWD, New Delhi is proper, legal and justified? If yes, to what relief is the disputant worker entitled and what directions, if any, are necessary in this regard?'

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, appearance on behalf of the claimant is marked on several 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: 09.04.2026

Ajay Kumar Jain, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2035.— 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 13/2003)** को प्रकाशित करती है,

[सं. एल.12012/210/2002-आई.आर.(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2035.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID.No.13/2003) 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-12012/210/2002- 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. 13/2003

Between:

Sri K. Prabhakara Rao,

Valandapalem,

Chilakalapudi(P.O.)

Machilipatnam.

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-12012/210/2002-IR(B.I) dated 24/31.12.2002 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

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?"

After receipt of the reference, it was numbered as ID No. 13/2003 and notices were issued to both the Workman and the management.

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

" 7. Hearing the learned senior counsel for the SBI and the learned senior counsel for the contesting unofficial 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, he joined the service of the Respondent Bank as a messenger from 1984 to 1998 and rendered unblemished service spreading over a period of about 12 years and by dint of hard work till his services were terminated 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 (Respondent s 3,4 and 5 therein) on 25.3.97, 27.3.97 and 31.3.1997 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 31.3.1997.

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, 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 31.3.1997 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 31.3.1997 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 to Ex.W3 are the service certificates.

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, Machilipatnambranch in terminating the services of Workman Sri K. Prabhakara 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 31.3.1997, 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 31.3.1997 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 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. 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 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. In this context the Workman witness WW1 was cross examined by the Respondent counsel and in the cross examination the witness WW1 states:-

"I applied for appointment as Messenger, in response to the advertisement issued by the bank and the union in the year 1989,…"

"The panel was prepared basing upon the number of days of service, put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointment in the bank in order of their seniority in the panel."….further, witness states, "It is true that I am not having any documents to show that any of my juniors are continuing in service in the bank."

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

40. However, Workman has taken the plea that the panels of Workmen for absorption in the employment of the Respondent banks (panels of temporary employees and daily wagers) has been lapsed on 31.3.1997 in contravention of terms of settlement as the object of preparing the entire empanelment of temporary and daily wagers was to

provide them permanent employment and till the both the panel lists exhausted the panel list cannot be lapsed on 31.3.1997 and the date of lapsing of the panel on 31.3.1997 has been fixed by the Respondent arbitrarily without any authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. K. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 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. Prabhakara Rao	NIL

Documents marked for the Petitioner

Ex.W1:	Photocopy of service certificate
Ex.W2:	Photocopy of Service certificate
Ex.W3:	Photocopy of service certificate

Documents marked for the Respondent

NIL

नई दिल्ली, 1 सितम्बर, 2026

का.आ. 2036.— 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 51/2002)** को प्रकाशित करती है,

[सं. एल.12025/01/2026/.आई.आर. (बी–I)-217]

सलोनी, उप निदेशक

New Delhi, the 1st September, 2026

S.O. 2036.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 51/2002) 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)-217]

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. 51/2002

[Old ITID(C) No. 33/2001 of Labour Court cum Industrial Tribunal, Visakhapatnam]

Between:

Sri Reddy Suryanarayana,

S/o Suryanarayana,

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 Reddy Suryanarayana 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. 33/2001, 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. 51/2002.

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 15.1.1987 to 2.4.1987, and has rendered unblemished service. The Respondent has terminated services of Workman by oral orders with effect from 3.4.1987. 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 31.3.1997 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 31.3.1997.

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 3.4.1987 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 31.3.1997 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. Further, MW1 has proved documents Ex.W2 to Ex.W4. 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 letter to CGM (Per) dated 10.10.1990. Ex.W3 is the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90. Ex.W4 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 Reddy Suryanarayana, a Messenger with effect from 3.4.1987 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 31.3.1997, 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 31.3.1997 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 3.4.1987 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 3.4.1987 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., 3.4.1987. The witness WW1 in chief examination has stated that he had worked for 195 days in the Respondent organization from 1987 to 14.10.1991. 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., 14.10.91. But as per the chief statement of witness WW1, vide Ex.W1 he had worked continuously for 75 days in the branch during the years 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. 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 15.1.1987 to 3.4.1987, 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., 3.4.1987. 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., 3.4.1987. 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 3.4.1987 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., 3.4.1987.

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 Reddy Suryanarayana, Ex. Messenger by way of oral orders w.e.f. 3.4.1987 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 Reddy Suryanarayana	MW1: Sri C.R.M. Sastry

Documents marked for the Petitioner

Ex.W1:	Photocopy of Service certificate
Ex.W2:	Photocopy of letter to CGM (Per) dated 10.10.1990
Ex.W3:	Photocopy of the letter from Government of India reg. recruitment and absorption of temporary employees dt.19.8.90
Ex.W4:	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.

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