



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-15072024-255351
CG-DL-W-15072024-255351

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 25]
No. 25]

नई दिल्ली, जून 23—जून 29, 2024, शनिवार/ आषाढ़ 2—आषाढ़ 8, 1946

NEW DELHI, JUNE 23—JUNE 29, 2024, SATURDAY/ASHADHA 2—ASHADHA 8, 1946

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)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 25 जून, 2024

का.आ. 1253.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद् द्वारा, सरकार, भारत के उच्चायोग, पोर्ट मोरेस्बी में श्री प्रदीप कुमार, सहायक अनुभाग अधिकारी को जून 25, 2024 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2024(21)]

नीरज अग्रवाल, निदेशक (सीपीवी)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 25th June, 2024

S.O. 1253.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Pardeep Kumar, Assistant Section Officer as Assistant Consular Officer in the High Commission of India, Port Moresby, to perform the consular services as Assistant Consular Officer with effect from June 25, 2024.

[F. No. T.4330/01/2024(21)]

NEERAJ AGRAWAL, Director (CPV)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 21 जून, 2024

का.आ. 1254.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में प्रसार भारती, आकाशवाणी महानिदेशालय के अधीनस्थ कार्यालय यथा आकाशवाणी, भोपाल, जिनके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/10/2017-हिंदी]

इफ्तेखार अहमद, उप निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 21st June, 2024

S.O. 1254.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the subordinate office of Prasar Bharti, Directorate General, Akashwani namely Akashwani, Bhopal, whereof more than 80% of the staff have acquired the working knowledge of Hindi.

[F. No. E-11017/10/2017-Hindi]

IFTEKHAR AHMAD, Dy. Director (O.L.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 21 जून, 2024

का.आ. 1255.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिग्रहण) अधिनियम 1962 (1962 का 50), (इसके बाद उक्त अधिनियम कहा जाएगा) की धारा 2 की उपधारा (क) के अनुसरण में, केंद्र सरकार उक्त अधिनियम के अधीन नीचे दी गई तालिका के कॉलम (1) में उल्लिखित व्यक्ति को कॉलम (2) में उल्लिखित क्षेत्रों के संबंध में कॉलम (3) में उल्लिखित इंडियन ऑयल कॉर्पोरेशन लिमिटेड के परिचालन पेट्रोलियम पाइपलाइनों के लिए सक्षम प्राधिकारी के कार्यों को करने के लिए अधिकृत करती है।

व्यक्ति का नाम एवं पता (1)	क्षेत्राधिकार क्षेत्र (2)	पेट्रोलियम पाइपलाइनों का नाम (3)
श्री जी नारायण, वरिष्ठ प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड दक्षिणी क्षेत्र पाइपलाइन्स, चित्तूर	आंध्र प्रदेश राज्य	1. चेन्नई बैंगलोर पाइपलाइन

इससे पूर्व एस.ओ. संख्या 706 दिनांक 27.07.2022 के अंतर्गत भारत के राजपत्र में दिनांक 06.08.2022 प्रकाशित आंध्र प्रदेश राज्य में इंडियन ऑयल कॉर्पोरेशन लिमिटेड के लिए पहले अधिसूचित सक्षम प्राधिकारी “श्री आर बालमुरुगण, वरिष्ठ प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, चेन्नई बेंगलोर पाइपलाइन”, को डी-नोटिफ़ाईड समझा जाए।

यह अधिसूचना इसके जारी होने की तारीख से प्रभावी होगी।

[फा. सं. आर-11025(11)/19/2018-ओआर-I/ई-27024]

शशि शेखर सिंह, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 21st June, 2024

S.O. 1255.—In Pursuance of sub section (a) of section 2 of the Petroleum and Minerals Pipeline (Acquisition of Right of Users in Land) Act 1962 (50 of 1962), (hereinafter called the said act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent authority under the said Act for IndianOil Corporation Limited in respect of areas mentioned in column (2) for its operational petroleum pipelines laid under the said Act mentioned in column (3) of the said Table:

Name & Address of Person	Area of Jurisdiction	Name of Petroleum Pipelines (s)
(1)	(2)	(3)
Shri G Narayana, Senior Operations Manager, IndianOil Corporation Limited, Southern Region Pipelines, Chittoor	Andhra Pradesh state	1. Chennai Bangalore Pipeline

Earlier notified Competent Authority for Indian Oil Corporation Limited in State of Andhra Pradesh, “Shri R Balamurugan, Senior Operations Manager, Indian Oil Corporation Limited, Chennai Bangalore Pipeline”, vide SO No 706 dated 27.07.2022 published in the Gazette of India dated 06.08.2022 stand de-notified.
The Notification will be effective from the date of its issue.

[F. No. R-11025(11)/19/2018-OR-I/E-27024]

SHASHI SHEKHAR SINGH, Under Secy.

नई दिल्ली, 21 जून, 2024

का.आ. 1256.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिग्रहण) अधिनियम 1962 (1962 का 50), (इसके बाद उक्त अधिनियम कहा जाएगा) की धारा 2 की उपधारा (क) के अनुसरण में, केंद्र सरकार उक्त अधिनियम के अधीन नीचे दी गई तालिका के कॉलम (1) में उल्लिखित व्यक्ति को कॉलम (2) में उल्लिखित क्षेत्रों के संबंध में कॉलम (3) में उल्लिखित इंडियन ऑयल कॉर्पोरेशन लिमिटेड के परिचालन पेट्रोलियम पाइपलाइनों के लिए सक्षम प्राधिकारी के कार्यों को करने के लिए अधिकृत करती है।

व्यक्ति का नाम एवं पता	क्षेत्राधिकार क्षेत्र	पेट्रोलियम पाइपलाइनों का नाम
(1)	(2)	(3)
श्री अशोक मीना, संचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, उत्तरी क्षेत्र पाइपलाइन्स, बिजवासन	दिल्ली, उत्तर प्रदेश और उत्तराखंड राज्य	1. सलाया मथुरा पाइपलाइन 2. मथुरा भरतपुर पाइपलाइन 3. मथुरा आगरा पाइपलाइन 4. मथुरा जलंधर पाइपलाइन 5. मथुरा जलंधर पाइपलाइन टिकरी लूपलाइन 6. पानीपत बिजवासन एटीएफ पाइपलाइन 7. सोनीपत मेरठ पाइपलाइन 8. कुरुक्षेत्र रुड़की नजीबाबाद पाइपलाइन

इससे पूर्व एस.ओ. संख्या 287 दिनांक 19.02.2019 के अंतर्गत भारत के राजपत्र में दिनांक 02.03.2019 प्रकाशित दिल्ली, उत्तर प्रदेश और उत्तराखंड राज्य में इंडियन ऑयल कॉर्पोरेशन लिमिटेड के लिए पहले अधिसूचित सक्षम प्राधिकारी श्री शरद चन्द्र, वरिष्ठ प्रबंधक (एचएसई), को डी- नोटिफ़ाईड समझा जाए।

यह अधिसूचना इसके जारी होने की तारीख से प्रभावी होगी।

[फा. सं. आर-11025(11)/19/2018-ओआर-1/ई-27024]

शशि शेखर सिंह, अवर सचिव

New Delhi, the 21st June, 2024

S.O. 1256.—In Pursuance of sub section (a) of section 2 of the Petroleum and Minerals Pipeline (Acquisition of Right of Users in Land) Act 1962 (50 of 1962), (hereinafter called the said act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent authority under the said Act for IndianOil Corporation Limited in respect of areas mentioned in column (2) for its operational petroleum pipelines laid under the said Act mentioned in column (3) of the said Table:

Name & Address of Person	Area of Jurisdiction	Name of Petroleum Pipelines (s)
(1)	(2)	(3)
Shri Ashok Meena, Operations Manager, Indian Oil Corporation Limited, Northern Region Pipelines, Bijwasan	State of Delhi, Uttar Pradesh and Uttarakhand	1. Salaya Mathura Pipeline 2. Mathura Bharatpur Pipeline 3. Mathura Agra Pipeline 4. Mathura Jalandhar Pipeline 5. Mathura Jalandhar Pipeline Tikri Loopline 6. Panipat Bijwasan ATF Pipeline 7. Sonipat Meerut Pipeline 8. Kurukshetra Roorkee Najibabad Pipeline

Earlier notified Competent Authority for Indian Oil Corporation Limited in State of Delhi, Uttar Pradesh and Uttarakhand, Shri Sharad Chandra, Senior Manager (HSE), vide SO No 287 dated 19.02.2019 published in the Gazette of India dated 02.03.2019 stands de-notified.

The Notification will be effective from the date of its issue.

[F. No. R-11025(11)/19/2018-OR-I/E-27024]

SHASHI SHEKHAR SINGH, Under Secy.

नई दिल्ली, 21 जून, 2024

का.आ. 1257.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिग्रहण) अधिनियम 1962 (1962 का 50), (इसके बाद उक्त अधिनियम कहा जाएगा) की धारा 2 की उपधारा (क) के अनुसरण में, केंद्र सरकार उक्त अधिनियम के अधीन नीचे दी गई तालिका के कॉलम (1) में उल्लिखित व्यक्ति को कॉलम (2) में उल्लिखित क्षेत्रों के संबंध में कॉलम (3) में उल्लिखित इंडियन ऑयल कॉर्पोरेशन लिमिटेड के परिचालन पेट्रोलियम पाइपलाइनों के लिए सक्षम प्राधिकारी के कार्यों को करने के लिए अधिकृत करती है।

व्यक्ति का नाम एवं पता	क्षेत्राधिकार क्षेत्र	पेट्रोलियम पाइपलाइनों का नाम
(1)	(2)	(3)
श्री राजांशु रंजी, प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड दक्षिणी क्षेत्र पाइपलाइन्स, बंगलौर	कर्नाटक राज्य	1. चेन्नई-बैंगलोर पाइपलाइन (सीवीपीएल) 2. देवांगोथी-देवनहल्ली पाइपलाइन (डीडीपीएल)

इससे पूर्व एस.ओ. संख्या 1809 दिनांक 20.11.2023 के अंतर्गत भारत के राजपत्र में दिनांक 25.11.2023 प्रकाशित कर्नाटक राज्य में इंडियन ऑयल कॉर्पोरेशन लिमिटेड के लिए पहले अधिसूचित सक्षम प्राधिकारी श्री शाहीम एम, मुख्य प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, दक्षिणी क्षेत्र पाइपलाइन, देवांगोथी, बंगलौर, कर्नाटक, को डी- नोटिफ़ाइड समझा जाए।

यह अधिसूचना इसके जारी होने की तारीख से प्रभावी होगी।

[फा. सं. आर-11025(11)/239/2017-ओआर-I/ई-13892]

शशि शेखर सिंह, अवर सचिव

New Delhi, the 21st June, 2024

S.O. 1257.—In Pursuance of sub section (a) of section 2 of the Petroleum and Minerals Pipeline (Acquisition of Right of Users in Land) Act 1962 (50 of 1962), (hereinafter called the said act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent authority under the said Act for IndianOil Corporation Limited in respect of areas mentioned in column (2) for its operational petroleum pipelines laid under the said Act mentioned in column (3) of the said Table:

Name & Address of Person	Area of Jurisdiction	Name of Petroleum Pipelines (s)
(1)	(2)	(3)
Shri Rajanshu Ranjee, Operations Manager, IndianOil Corporation Limited, Southern Region Pipelines, Bangalore	Karnataka state	1. Chennai-Bangalore Pipeline (CBPL) 2. Devanagonthi-Devanahalli Pipeline (DDPL)

Earlier notified Competent Authority for Indian Oil Corporation Limited in Karnataka State, Shri Shaheem M, Chief Operations Manager, Indian Oil Corporation Limited, Southern Region Pipelines, Devanagonthi, Bangalore, Karnataka, vide SO No 1809 dated 20.11.2023 published in the Gazette of India dated 25.11.2023 stand de-notified.

The Notification will be effective from the date of its issue

[F. No. R-11025(11)/239/2017-OR-I/E-13892]

SHASHI SHEKHAR SINGH, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 7 जून, 2024

का.आ. 1258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, जबलपुर के पंचाट (एलसी/आर/42/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/32/2011-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th June, 2024

S.O. 1258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC/R/42/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 06/06/2024

[No. L-22012/32/2011- IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/42/2011

Present: P.K.Srivastava

H.J.S..(Retd)

The Secretary

Janta Mazdoor Sangh (HMS), B-3/6

Store Complex, Amradandi,

PO: Amlai Colliery, Distt.- Shahdol (MP)

Workman

Vs

The Chief General Manager

Sohagpur Area of SECL, PO: Dhanpuri

District Shahdol (MP)

Management

(J U D G E M E N T)

(Passed on this 9th day of May 2024)

As per letter dated 18/05/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/32/2011 IR(CM-II) dated 18/05/2011. The dispute under reference relates to:

“Whether the action of management of the Sohagpur Area of SECL in not promoting Md. Ali, Telephone Operator to T & S, Grade-B & Grade-A w.e.f. 24.12.2001 and 24.01.2006 respectively, is legal and justified ? To What relief the concerned workman is entitled to ?

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and filed their respective statements of claim and defense.

According to the workman, he was first promoted as T & S, Grade-D on 01.02.1986. His co-workmen Kishori Mohan and Jagdish Prasad were promoted as T & S, Grade-D on 15.12.1986, hence he was senior to them. On 03.09.1992, he was promoted as Senior Operator in T & S Grade-C w.e.f. 07.08.1991. His co-workers Kishori Mohan and Jagdish Prasad were promoted in Grade-C on 30.07.1991/07.08.1991 with immediate effect. In the year 2001 Kishori Mohan and Jagdish Prasad were given opportunity for promotion in Grade-B by the Departmental Promotion Committee and the claim of the workman was not recognized by the Committee which is arbitrary and discriminatory on the part of management. He was further not considered for promotion in Grade-B in the year 2002-03 though there were five vacancies and he was the second senior most. According to the workman he should have been promoted to Grade-B on 24.12.2001, thus the action of management in not promoting him on 24.12.2001 and in 2002-03 on the post of Telephone Operator Grade-B is arbitrary. The workman has prayed that he be granted the relief of his deemed promotion from 24.12.2001 and also the arrears.

The Case of management is mainly that, on 25.11.2000, a temporary seniority list of Telephone Operators Grade-C was released and objections, if any, were invited. Since no objection was filed against this list, it became final. The workman was placed below Kishori Mohan and Jagdish Prasad in this list. Since, the vacant posts for promotion in Grade-B were only 6, only 1 vacancy in general list, the workman could not be considered in 2001 for promotion and his senior was considered. The workman could not get promotion in 2003 because he was constantly rated poor for 3 years preceding 2002-03.

The workman filed his affidavit as his examination in chief he did not appear for cross examination. Management filed affidavit of its witness as his examination in chief. The workman did not appear to cross examine management witness. The workman has filed photocopies of office orders, admitted by management which are Ex. W/1 to W/7. Management has filed temporary promotion list dated 25.11.2000 and report of Departmental Promotion Committee under orders of this Tribunal.

The workman did not appear at the time of argument, hence argument of Mr. Anoop Nair, Senior Advocate assisted by Advocate Shubham Nanepag was heard by me. I have gone through the record. No written argument filed by any of the parties.

As it appears from perusal of documents that till promotion of the workman as Operator Grade-C, he was placed senior to Kishori Mohan & Jagdish Prasad. He was placed junior in the list of Operator, Grade-C as per the temporary seniority list dated 25.11.2000, which became final because no objection was filed against the list. Since, this was confirmed seniority list of Operator Grade-C, the action of management in not promoting the workman in Grade-B and promoting Kishori Mohan & Jagdish Prasad in 2001 could not be held unjustified, when there was only one vacancy for general category to which the workman belongs. Similarly, since there is no evidence that the workman represented against the adverse remarks awarded to him for 3 consecutive years, these entries became final. Thus, the action of management in not promoting the workman on the post of Telephone Operator, Grade-B on the basis of adverse entries in the year 2002-03 is also held justified in law.

In the light of above discussion and findings, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE:- 09/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जून, 2024

का.आ. 1259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, जबलपुर के पंचाट(एलसी-आर/67/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2024 को प्राप्त हुआ था।

[सं. एल-22012/38/2016-आई.आर.(सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 11th June, 2024

S.O. 1259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/-R/67/2016**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**.

[No. L-22012/38/2016 –IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/67/2016

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Kallu Kol

C/o. Co-Secretary, Janta Mazdoor Sangh

B-3/6, Store Complex, Amaradandi

PO: Amlai Colliery, Distt.- Shahdol (MP)

Workman

Vs

The General Manager

Johilla Area of SECL

PO: Nowrozabad, Distt.-Umariya (MP)

Management

(J U D G E M E N T)

(Passed on this 30th day of April 2024)

As per letter dated 15/07/2016 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22012/38/2016 IR(CM-II) dt. 15/07/2016. The dispute under reference relates to:

1. श्री कल्लू कोल, भूतपूर्व पी.आर.लोडर, एसईसीएल खान प्रबंधक द्वारा मौखिक रूप से ट्रांसफर करना क्या उचित है ? यदि नहीं तो श्री कल्लू कोल क्या अनुतोष पाने का हकदार है ?
2. आवेदक श्री कल्लू कोल को अनावेदक/प्रबंधक द्वारा संपूर्ण वेतन सहित सेवा में पुनर्स्थापित न किया जाना क्या उचित है ? यदि नहीं तो श्री कल्लू कोल क्या अनुतोष पाने का हकदार है ?**

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and filed their respective statements of claim and defense.

According to the workman union, the workman Kallu Kol was appointed with the Management on 22.07.1988 and worked on the post of Loader Grade-V under Pipariya Colliery in February 1999, the attendance clerk informed him that he was transferred and directed him to meet the Manager of Colliery. He went to the Manager and requested the Manager to give him transfer order which he was not given and Manager directed him to collect the transfer order after sometime. Thereafter, he went several times to the Manager and requested him to handover the transfer order he was not given any transfer order. He kept attending his work place and as last resort, he went to management with a letter on 26.11.2014 and requested the management to take action in his matter but management refused to receive his letter, hence he sent it on 13.12.2014 by registered post. Management took no action on his letter. He again contact the General Manager who directed him to collect his transfer order from the Colliery Office. Thereafter he contacted the Manager at Colliery on 15.07.2015 and requested him to take him back on duty or dismiss him from services if they are unable to take him on duty. He was orally informed that he could not be taken back on duty and he has been removed from services. He was not issued nor was he given any termination order in spite of his request to provide the termination order. According to the workman, he was removed from services without giving him opportunity of hearing which is arbitrary and unjust. The workman side has thus prayed that setting aside his termination order, he be held entitled to be reinstated with back wages and benefits.

In its written statement of defense, the management has taken a stand that the workman last worked at Pipariya Colliery in February 1999 as claimed by himself. In fact, he was initially appointed at Dhanpuri Colliery SECL Sohagpur Area on 22.07.1988, he was transferred from Dhanpuri Colliery and joined at Naurojabad Colliery, Johilla Area on 19.07.1993. He was transferred in 1996 to Pipariya Colliery vide order dated 08.06.1996 and was relieved on 15.06.1996 with a direction to report for duty at the place of his transfer Pipariya Colliery. He was again transferred from Pipariya Colliery to Naurojabad Colliery, he never reported at Naurojabad Colliery on his transfer. His whereabouts were not known he absented thereafter, hence management initiated disciplinary proceedings against him for the charge of unauthorized and willful absence, which is a misconduct in the Certified Standing Orders. He did not participated in the enquiry though notice of the enquiry was sent to him on his residential address maintained in his service records.

According to management, in fact the workman himself abandoned from the service, hence he was removed from service. It is further the case of management that the date of superannuation of the workman was 30.06.2016, he raised the dispute after about 20 years of from his absence, hence, his claim is barred by unexplained delay and laches on his part. Management has accordingly requested that the reference be answered against the workman.

In evidence, the workman filed photocopy documents out of which the admitted documents are Ex. W/1 transfer order dated 26/27.06.1996, No Dues Certificate issued by management Ex. W/2, application by workman before Assistant Labour Commissioner Ex. W/3, reply of management Ex. W/4 and failure of conciliation report Ex. W/5. The documents filed by the workman, not admitted by management have not been proved by the workman. The workman has filed his affidavit as his examination in chief and has been cross examined by management.

The workman has also filed and proved his Medical Service Card, his two Pay Slip, his application dated 26.11.2004 to management and his application before Controlling Officer for claiming gratuity. Management has filed affidavit of its witness as its examination in chief, workman has cross examined this witness.

I have **heard arguments** of Shri Satyendra Kumar Advocate for workman and Shri Anoop Nair Senior Counsel for management assisted by Shri Neeraj Kewat Advocate and have gone through the record.

The reference itself is the issue for determination.

As regards the first point in the reference, case of the workman is that he was never served any transfer order. He kept insisting that transfer order be given him so that he could join at the place of transfer but his this request was not granted by management. According to the workman he was only informed orally about this transfer.

Management has stated that transfer order was issued in writing, it was pasted on the notice board and was served on the workman. He was relieved from the place of his posting to join at the place of his transfer along with other co-workers. Management has proved these documents. From perusal of these documents, it is proved that the transfer order was not oral rather it was in writing and was duly notified on the workman and this point is answered accordingly.

As regards the second point in the reference, the case of the workman is that he kept attending the office till 2014 but was not allowed to work nor was he allowed to sign the attendance register. He has stated this fact in his statement on oath. Case of management is that the workman was issued transfer order vide office order dated 08.06.1996 and was released to proceed on transfer vide office order dated 15.06.1996 along with co-workers who were also transferred under the same order and relieved for joining at place of their transfer. The case and the statement of the workman that he kept insisting that his transfer order be given to him and that he continuously attended the office from 1996 to 2014 but was not paid his wages nor was he allowed to sign the attendance register, also no work was allotted him is so inherently improbable that it cannot be believed by anyone having least common sense. From evidence on record, it is established that the workman voluntarily abandoned his service by absenting himself from duty for almost 20 years. Learned Counsel for management has referred to Judgment of **Hon'ble the Apex Court in the case of Vijay S. Sathey vs. Indian Airlines, reported in (2013) 10 SCC 253**. The relevant paragraphs of this Judgment are being reproduced as follows :-

“This extract is taken from *Vijay S. Sathey v. Indian Airlines Ltd.*, (2013) 10 SCC 253 : (2014) 1 SCC (L&S) 760 : 2013 SCC OnLine SC 805 at page 257

12. It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntary abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.

13. In *Jeewanlal (1929) Ltd. v. Workmen* [AIR 1961 SC 1567] this Court held as under : (AIR p. 1570, para 6)

“6. ... there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee.”

(See also *Shahoodul Haque v. Registrar, Coop. Societies* [(1975) 3 SCC 108 : 1974 SCC (L&S) 498 : AIR 1974 SC 1896] .)

14. For the purpose of termination, there has to be positive action on the part of the employer while abandonment of service is a consequence of unilateral action on behalf of the employee and the employer has no role in it. Such an act cannot be termed as “retrenchment” from service. (See *State of Haryana v. Om Parkash* [(1998) 8 SCC 733 : 1999 SCC (L&S) 262] .)

15. In *Buckingham and Carnatic Co. Ltd. v. Venkatiah* [AIR 1964 SC 1272] , while dealing with a similar case, this Court observed : (AIR p. 1275, para 5)

“5. ... Abandonment or relinquishment of service is always a question of intention, and, normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf.”

A similar view has been reiterated in *G.T. Lad v. Chemical and Fibres of India Ltd.* [(1979) 1 SCC 590 : 1979 SCC (L&S) 76 : AIR 1979 SC 582]

16. In *Syndicate Bank v. Staff Assn.* [(2000) 5 SCC 65 : 2000 SCC (L&S) 601] and *Aligarh Muslim University v. Mansoor Ali Khan* [(2000) 7 SCC 529 : 2002 SCC (L&S) 965 : AIR 2000 SC 2783] this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he *should be treated to have resigned and ceases* to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in *Banaras Hindu University v. Shrikant* [(2006) 11 SCC 42 : (2007) 1 SCC (L&S) 327] , *Chief Engineer (Construction) v. Keshava Rao* [(2005) 11 SCC 229 : 2005 SCC (L&S) 872] and *Bank of Baroda v. Anita Nandrajog* [(2009) 9 SCC 462 : (2009) 2 SCC (L&S) 689] .”

From the evidence on record and in the light of the aforesaid principle of law laid down by Hon'ble the Apex Court in the referred case, the management is held fully justified in law in not reinstating the workman. The workman thus, is held not entitled to any relief.

In the light of above discussion and findings, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.

DATE:- 30/04/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 11 जून, 2024

का.आ. 1260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, जबलपुर के पंचाट(एलसी-आर/86/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 106/06/2024 को प्राप्त हुआ था।

[सं. एल-22011/17/2016-आई.आर.(सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 11th June, 2024

S.O. 1260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/-R/86/2016**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **S.E.C.L.** and their workmen, received by the Central Government on **06/06/2024**.

[No. L-22011/17/2016 – IR (CM-II)]

MANIKANDAN. N , Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No.- CGIT/LC/R/86/2018

Present: P.K.Srivastava

H.J.S..(Retd)

The Secretary

Koyla Shramik Sangh (CITU)

Branch- Dhanpuri OCM, PO- Dhanpuri

Dist-Shahdol (MP)

Workman

Vs

The General Manager, Sohagpur Area,

of SECL, Po- Dhanpuri, Distt.-Shahdol (MP)

Management

(J U D G E M E N T)

(Passed on this 2nd day of May 2024)

As per letter dated 29/10/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22011/17/2016 IR(CM-II) dt. 29/10/2018. The dispute under reference relates to:

“Whether the action of the Area Manager, Food Corporation of India 2722, Napier Town, Jabalpur (MP) / General Manager, Food Corporation of India, Regional Office, Bhopal (MP) / Contractor M/s Laxmi Narayan Khandelwal R/o Waraseoni Distt. Balaghat in terminating the services of (1) Shri Arjun Patel S/o. late Bhurelal Patel Ex-Waterman/peon and (2) Shri Abdul Khalid Danish S/o late Shri Najir Ahmad Danish Ex- Waterman/Peon w.e.f. 12.02.2016 is fair, legal, & justified ? If not, to what relief the concerned workmen are entitled to ?”

After registering a case on the basis of the reference, notices were issued to the parties and were served.

In their statement of claim, the applicant Workmen, they were initially appointed by the management of Food Corporation of India (in short, FCI) in the year 1984 and have since then working for management of FCI as their employees. They were not paid their wages by the management. Hence they filed a case before the competent authority in the payment of wages act for getting their wages, which was registered and was decided by the competent authority wide its judgment in the August, 7th 2018 and February 13, 2017. The management was directed

by the competent authority, the Regional Commissioner Labour Central and management was directed to pay wages of these workmen for the period February 2015 to 2 September 2015 total nine months, which was Rs. 27,000 /-for each of the Workman along with compensation at the rate of Rs. 5000 payable by management to each of the Workman and for the period October 2015, 2 February 2016 Rs. 52,316 /-to each of the workmen. According to the workmen, they had raised a dispute before the Labour Commissioner for regularization of their services with the management. The management has showed them to regularize their services as DPS Labour, and it is on this assurance from management, they withdrew their petition for regularization filed by them before the Labour Commissioner. The management passed an order on September 29th 2003 for regularizing them as DPS Labour, but without back wages and benefits. It is the case of the applicant Workman that the management did not keep promise and continued them as daily wagers. Ultimately, the management disengaged them on February 12th 2016 without any notice or compensation. According to the workmen, this action of management is against section 25G, 25F & 25H the industrial Disputes act 1947 (in short, the 'Act'). According to the workmen, by continuously working with the management, since 1984 till the date of their termination against law, they have matured their right to be regularized on their post. The management has thus acted against the Act in refusing regularization to these workmen and also this engaging them without notice or compensation. The Workmen for have accordingly sought the relief of his reinstatement with all back wages and benefits, and they are regularization, holding his termination against law.

According to the management of FCI, please workmen were never engaged by them in any capacity. Hence, there has never been any relation of an employer and workman as defined in the Act. They are not Workman as per section 2(7) of the Act, hence there is no question of their termination by the management. Management further, has pleaded that they have filed an appeal before the District Judge against order of the Competent Authority passed by it in proceedings before it under Payment of Wages Act. According to management, it gets some jobs done through contractors engaged by it. These workmen were the employees of the contractor. The management has accordingly prayed that the reference be answered against the Workmen.

In evidence, the work & filed the affidavit's of the workman Arjun Patel and Abdul Khalik Danish as their examination in Chief. They have been cross-examined by management. The Workman said has also filed affidavits of M.R. Khan, K.L. Tiwari, Ira Srivastava, G.P. Tiwari and Madhve Rao Pasi as their examination in Chief, out of which two witnesses, GP Tiwari and Madhve Rao Pasi have been cross-examined by management. Management has filed affidavits of its witnesses Anil Kumar Verma Sangeet Verma , who are the officers of the management.

The Workman side has proved documents which are Ex. W/1, three work slips together, Ex. W/2, office order dated September 29th, 2003, directing the workman Arjun Patel to work as DPS worker as per the terms and conditions as contained in the DPS regulations from the date of the order ,Ex. W/3,4 freight receipts, Ex. W/4 & are 18 & 6 photocopy documents connecting the Workman, with the management and certificates issued by different officers at different times, some of them have been examined from the side of Workmen and have been cross-examined by management, Ex. W/6, RTI documents 8 pages. The management has not proved any document.

I have heard the argument of learned counsel for the workmen, Mr A.K.Soni and Mr Mukesh Kumar Agarwal for management. The Workman side has also filed memorandum of arguments which is part of the record. I have gone through the record in the light of oral and written submissions.

The following issues arise for determination. On perusal of record in the light of rival arguments. They are –

1. **Whether the applicant Workmen have successfully proved their continuous engagement from 1984 till date of termination of their services. February 12th, 2016 ?.**
2. **Whether the action of management in this engaging these workmen is in violation of the Act?**
3. **Whether the Workman are entitled to any relief ?**

Issue number one-

Before entering into any discussion, following provisions of the 'Act' required to be mentioned and are being reproduced as follows-

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any 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

3(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;

[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. *Explanation.- For the purpose of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-*

a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;

b) he has been on leave with full wages, earned in the previous year;

c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

d) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

25F. Conditions precedent to retrenchment of workmen.-

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

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

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

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

25G. Procedure for retrenchment.-

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.-

Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 2[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

The pleadings of the parties on this issue have been detailed earlier as above. According to the applicant Workmen, they were first engaged in the year 1984 and continued with the management till February 12th 2016.

Management has completely denied their this allegation and has pleaded that they were never engaged by the management of FCI at any point of time in any capacity, even as a daily wager. According to management, they might have been the employees of the contractors who were given contracts by management for different jobs of loading and unloading.

The workmen have filed their affidavits as their examination in Chief in which they have corroborated their case on this point as stated in their statement of claim. In his cross-examination, the workman Arjun Patel has stated that there was an attendance register in the office, which was not meant for them. The attendance registers were section wise. He further stated that since 1984 to December 2014, he was paid his wages in cash by the office of FCI in Jabalpur. His co-worker Abdul Khalid Danish was also paid his wages by the office of FCI in Jabalpur in cash. This witness admits that he was not issued an appointment letter and also that he is in the knowledge of the fact that the management has referred an appeal before the Court of the District Judge against the order of competent authority passed by him in the case relating to Payment of Wages , filed by the applicant Workmen. He denied that he was engaged by the contractor. The other workman Abdul Khalid has stated in his cross-examination that he and his co-worker were paid his wages by the admin office, the wages were paid in cash and that he was not an employee of the contractor. These statements of these workmen are corroborated by Ex. W/1 to Ex. W/6. Most are relevant among these is the office order dated September 29th 2003, issued by the District Manager wearing he has directed the Workman Arjun Patel to work as DPS Labour in the DPS regulations act at Ramu Depot from the date of the order. The 2nd workman has also stated that the same order was issued by management with respect to him, but he could not file, the copy of the order. Management has not cross-examined, these two workmen on the point of their statement that orders were issued by management, allowing them to work as DPS Labour on the date mentioned above. Hence, the management shall be deemed to have not disputed this fact. Further, the various officers of the management, names mentioned earlier in this judgment, have filed their affidavits as their examination in Chief, out of which two have been cross-examined. Learned counsel for management has challenged the certificates issued by these officers of management on the ground that firstly, they did not have authority to issue the certificates and secondly, since they have retired and are no more in service of the management, they have conspired with these workmen. Even if these certificates are not taken into account, their statements, at least they statements of two of these officers who have been cross-examined by management may be looked into for corroboration of the case of the Workmen. These witnesses have categorically stated that these workmen were working in the office of management, as employees of management during their tenure. There is nothing in cross-examination of these witnesses to discredit them on their statements on this point. Documentary evidence. The two judgments of the competent authority in the cases relating to payment of wages, filed by these workmen(details mentioned earlier in this judgment) , the finding of the competent authority that these workmen worked with the management, as their employees also corroborates the case of the workmen and their continuous service under an employment of the management of FCI.

On the other side, the management witness Sangeet Verma has stated in his affidavit as his examination in Chief that these workmen were never engaged in any capacity by the management. No records with respect to these workmen is available with the management. The names of these workmen is not in the list of workmen who have been paid wages by the management, an appeal is pending in the Court of the District judge against the payment of wages order. Hence this order is not final. In his cross-examination, this witness has stated that he was posted in Jabalpur office of management, only in August 2022. There is nothing more in his cross-examination and relevant on this issue number one. The other witness of management, Anil Kumar Verma has not been cross-examined by the Workman said and he has been discharged by management on August 29th 2022, as it is apparent from the order sheet of the date. Hence, his affidavit as no relevance.

Thus, there is on record, at least statements of two workmen and their two witnesses who have been cross-examined by the management who corroborated the case of the workmen that firstly, they were engaged by the management of FCI as daily wager, secondly, they were accorded status of DPS Labour by management wide its order dated September 29th 2003. That statements of these witnesses are supported by the documents Ex. W/1 to Ex. W/6, details mentioned above. It has to be kept in mind that there is no stay order with respect to operation of the judgments are with respect to payment of wages to these Workmen. They are binding on party till they are in force/not set aside by higher Court. Opposed to it is the statement of one management witness who claims knowledge of the fact from the record maintained by Management but not produced before this Tribunal. It is in part to mention here that during pendency of the proceedings, the workmen side files an application on March, 19th 2020 with affidavit seeking direction to management to file the original documents mentioned in the application Management. The management filed written objection. This application was allowed vide order dated March 20th 2020. The management was directed to file these documents mentioned in the application in original or filed an affidavit of someone authorized by management. If these documents were not available. The management did not file the original documents nor did they file the affidavit that these documents were not available.

Thus, in the light of above discussion, the evidence from the side of the workmen on number one, seems more reliable and accordingly, the workmen are held to have successfully proved their continuous engagement from 1984 till date of termination of their services. February 12th , 2016 and issue number one is answered accordingly.

Issue number two-

Since it is the case of the applicant Workmen that no notice or compensation was paid to them before this engaging them. The management has flatly denying the engagement of these workmen hence submits that there was no question for any notice or compensation or any disengagement of these workmen by management. In these circumstances, and in the light of findings recorded on issue number one, **the action of management terminating the services of these workmen without compensation is held against violation of section 25F & 25G of the 'Act' & is law and unjust. Issue number two is answered accordingly.**

Issue number three-

In the light of findings on issue number one and two, the question arises as to what relief the Workmen are entitled to.

Learned counsel for the workmen has relied on five Judges judgment of **Hon'ble the Apex Court in the case of Secretary State of Karnataka and others Vs Umadevi reported in 2006AIRSCW 1991**. In paragraph 44 of this judgment, referred to by the learned counsel, the Supreme Court had issued directions to the union of India, state governments and their instrumentalities to take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for 10 years or more in a duly sanctioned posts. But not under the cover of orders of sports or tribunals. It was also directed that this exercise should be completed within six months of this judgment. The learned counsel has submitted that the management never complied this direction of Supreme Court.

From the record, it has been held proved that these workmen have put in about 30 years under the engagement of the management, also, it is true that the order of the management itself, granting DPS status to these workmen on September 29th 2003 was also not complied with.

There is also on record, a judgment of High Court of MP passed in WP number 5142/1997 against the present management on August 18th 1998 in which the High Court has directed the Workman who was working as a daily wager with the management and there was an order of his reinstatement passed by this Tribunal, confirmed by High Court, SLP dismissed by Supreme Court to regularize him when after this much of litigation, the workmen was reinstated in compliance of the said order as a casual daily wager only.

It is the settled proposition of law that when the termination of a Workman is held against law, he is entitled to any one of the two reliefs, ie; either reinstatement or without back wages or compensation. In the case in hand, keeping in view the period of engagement of these workmen and also the fact that these workmen were granted DPS status by management. Long back in 2003 (details mentioned earlier) compensation to them will not be a just and proper relief. **In my considered view, reinstatement of these workmen with all the benefits of our DPS Labour, since September 29th, 2003 will meet the ends of Justice. They are also held entitled to be considered for the regularization according to rules and procedure in this respect, treating themselves to be DPS Labour, since September 29th 2003. They are also held entitled to litigation cost contributed at Rs. 25,000 /- to be divided between them equally. Management is held under obligation to complete this whole exercise and payment of any money due as a benefit of this exercise within 30 days from the date of publication of this award. In the official Gazette, failing which interest at the rate of 8% per annum from the date of award till payment. Issue number 3 is answered accordingly**

In the light of the above discussion, following award is passed.

AWARD

Holding the action of management in disengaging the Workman Arjun Patel and Abdul Khalid by the management of FCI against law and unjustified, they are held entitled to reinstatement with all the benefits of DPS Labour, since September 29th, 2003. They are also held entitled to be considered for the regularization according to rules and procedure in this respect, treating themselves to be DPS Labour, since September 29th 2003. They are also held entitled to litigation cost contributed at Rs. 20,000 /-. Management is held under obligation to complete this whole exercise and payment of any money due as a benefit of this exercise within 30 days from the date of publication of this award. In the official Gazette, failing which interest at the rate of 8% per annum from the date of Award till payment.

DATE:- 02/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 जून, 2024

का.आ. 1261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 68/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/06/2024 को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आई.आर.(सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 18th June, 2024

S.O. 1261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 68/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 11/06/2024.

[No. L-22013/01/2024 –IR (CM-II)
MANIKANDAN. N , Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 68/2020

Ref. No. D-856/AB/2020/45/IR/DDN

Vasant Kumar Vs. FCI

BETWEEN

Sri Vasant Kumar S/o Sri Sri Sri Kundan Lal,
Village- Barkhera, Tehsil- Bisalpur District- Pilibhit (U.P.)

..... **Workman**

AND

- (1) The General Manager (Principal Employer)
Food Corporation of India,
Regional Office, T.C.3, V-Vibhuti Khand, Gomti Nagar, Lucknow (UP)
- (2) The Regional Manager (Appointing Authority)
Food Corporation of India (FCI),
District, Office, Shahjahanpur (U.P.)
- (3) Sri Rajendra Saxena (Representative)
M/s Keshav Singh and Ors. T.P. No. 315. Katia Tolla,
Shahajhanpur (U.P.)

..... **Respondent**

AWARD

By letter/order dated 09.09.2020 the following reference has been referred to this Tribunal for adjudication.

“Whether the termination of the service of Sri Vasant Kumar S/o Sri Kundan Lal, who was engaged in Roja Depot of FCI, Shahajhanpur, (UP) by M/s Keshav Singh, Contractor of FCI, for the period 08.07.2008 to 23.04.2010 is proper and justified”.

If not, to what relief, the workman is entitled to?”

From the perusal of the record the position which emerged out that on 21.10.2023 notice was issued to the workman to file statement of claim along with witness and documents.

Thereafter on the following dates i.e. on 01.01.2021, 08.11.2021, 07.03.2021, 20.05.2022, 12.8.2022, 26.10.2022, 11.01.2023 time was granted to file statement of claim by claimant however the same was not filed.

11.01.2023

Matter taken up revised list.

Parties absent.

Last opportunity is granted for CS.

List on 21.03.2023.

On **21.03.2023** an order was passed quoted herein below:-

Matter taken up in revised list.

Sri Neeraj Singh holding brief Sri Dharendra Singh for FCI.

None for claimant.

In spite of last opportunity, claim statement is not filed, accordingly opportunity for statement of claim is closed.

List on 13.03.2023 for ex-parte hearing.

On **08.08.2023** was passed held as under:-

Matter taken up in revised list.

Sri Dharendra Sing For FCI.

None for claimant.

List on 03.11.2023 for ex-parte hearing. Notice to claimant.

Today when the matter was taken up in the revised cause list neither the workman nor any legal representative appeared also till date no statement of claimant has been filed.

Accordingly after hearing Sri Dharendra Singh learned counsel for the respondent and going through the record, taking into consideration the facts, stated here and above that in spite of due opportunity statement of claim has not been filed by claimant.

So taking into consideration the said facts and the law as laid by the Hon'ble High Court in the case of V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194 as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary- cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workmen/claimant has filed any statement of claim, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; the workman is not entitled for any relief.

Award as above.

Lucknow.

Date 08.02.2024

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1262.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रेलवे विद्युतीकरण कोर के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (12/2015) प्रकाशित करती है।

[सं. एल-41012/35/2014-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/20115) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Railway Electrification Core and their workmen.

[No. L-41012/35/2014 – IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/12/2015

Present: P.K.Srivastava

H.J.S..(Retd)

Sh. Khuman Singh S/o. Indar Singh

Village Narayanpur, Tehsil – Nateran

Vidisha (MP)

Workman

Versus

The General Manager

Railway Electrification Core

Headquarter Office Allahabad (Prayagraj).

Ministry of Railways

Rail Bhawan, ESTT. L.L.

New Delhi.

Management

(J U D G E M E N T)

(Passed on this 16th day of May 2024)

As per letter dated 01/01/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-41012/35/2014 IR(B-I) dt. 01/01/2015. The dispute under reference relates to:

“Whether the action of the management of Railway Electrification Core Allahabad in terminating the services of Shri Khuman Singh S/o. Inder Singh w.e.f. 12.11.1986 was justified ? If not, to what relief Shri Khuman Singh is entitled for ?”

After registering a case on the basis of the reference, notices were sent to the parties and were served. Both the parties appeared and filed their respective Statement of Claim and Written Statement of Defense.

According to the workman, he was an employee of Railways in Rail Electrification Project in Mathura from 17.04.1981 to 22.12.1983 and from 25.05.1984 to 12.11.1986 in Bhopal. Thus, he gained temporary status. He was sent for medical test for providing regular post in category B-1 but failed the test due to being colour defective in vision. He should have been posted in C-1 & C-2 category post but was denied by Railways and was terminated from service which is against law and arbitrary. He raised a dispute before Assistant Labour Commissioner Bhopal after his persistent requests for his appointment C-1 & C-2 category as well his reinstatement were not heard by the management. After failure of conciliation, the reference was made to this Tribunal. The workman has prayed that he be reinstated with all back wages and benefits.

The case of management is mainly that the workman was initially engaged as a casual labour but never completed 240 days in continuous service in any year. He was sent for medical examination in B-1 category to DMO/CR/Bina vide medical memo dated 12.11.1986 issued by PWI/RE/Bhopal. He was declared medically unfit in B-1 category after medical examination vide Medical Certificate no.-191651 dated 14.11.1986 and was not granted temporary status because he was medically unfit for the job. He was eligible for any other job being medically unfit. It is further the case of management that the workman filed representations in 2003 claiming himself to be a member of Schedule Caste Community with certificate and in his second representation in 2011, he claimed himself to be member of OBC Community, filed OBC certificate.

The workman filed his affidavit as his examination in chief. He was cross examined by management. Management filed affidavit of its witness who corroborated the case of management. This witness was not cross examined by workman.

At the stage of argument, the workman appeared in person. His submissions were heard. Argument of learned Counsel for management were heard by me and the record has also been perused.

The reference itself is the issue for determination.

The facts that the workman was working as a casual labour, he was found medically unfit for job in category B-1 post and hence, was disengaged by management on medical grounds being medically unfit, are not disputed between the parties. The case of the workman is that he could have been appointed on category C-1 & C-2 posts also cannot be accepted because there is nothing to show that there was any vacancy in those categories and that rules permitted him to be appointed on C-1 & C-2 posts inspite of being medically unfit.

The cause of action arose in 1986 and the dispute was raised in 2015, hence the claim is held barred by unexplained delay and laches on the part of the workman.

In the light of above discussion and findings, the reference deserves to be answered against the workman and stands answered accordingly. No order as to cost.

DATE:- 16/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1263.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (12/2013) प्रकाशित करती है।

[सं. एल-12011/63/2012-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/63/2012 – IR (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/12/2013

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Dainik Vetan Bhogi Bank Karmchari

Sangathan, F-1, Tripti Vihar,

Opp.- Engg. College, Ujjain (MP)

Workman

Versus

The Chief General Manager,

State Bank of India,

LHO Hoshangabad Road, Bhopal (MP)

Management

A W A R D

(Passed on this 22nd day of May-2024.)

As per letter dated 28/01/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/63/2012/IR(B-I) dt. 28/01/2013. The dispute under reference related to :-

“Whether the claim of Union for regularizing the services of Shri Umesh Verma from the date of termination is legal and justified ? If so, what relief the workman is entitled ?

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

The case of the workman in short is that the workman was appointed as Peon in Dharampuri branch of the Bank on 02.05.1998. He worked continuously till 30.11.2010. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He requested that he be reinstated with full back wages.

The management appeared and filed written statement in the case. **The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in Dharampuri branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It is submitted that his claim be rejected.

In evidence, the workman has filed documents which are admitted by management and marked Ex. W/1 to Ex. W/3. Management also has not examined any witness.

At the stage of argument, none appeared for workman, hence I have heard argument of learned Counsel Mr. Praveen Yadav for management. None of the parties has filed any written submissions.

On the basis of the pleadings of the parties, the following issues were arise:-

- 1) Whether the action of the management in terminating the services of the workman w.e.f. 30.11.2010 is justified?
- 2) To what relief he is entitled ?

Issue No.-1:-

Pleadings of the parties on this issue has been mentioned earlier. The burden to prove his continuous employment for 240 days in an year is on the workman. There is no evidence of any witness or evidence of the workman on oath to corroborate this fact. The documents Ex. W/1 admitted by management is reply of management

before the Regional Labour Commissioner in the dispute raised by the workman with regards to his dismissal, in which the management has sought 2 months time for reply. Ex. W/2, admitted by management, is details of the work taken by management and payment made. This document shows that on random dates between 20.06.2001 to 02.11.2005 miscellaneous works were taken from the workman for which he was paid different sum of amount for different works. This document is not sufficient to hold the continuous employment of the workman for 240 days in an year proved. Rest of the photocopy documents, filed by workman are not admitted by management. The workman side was under obligation to prove these documents which they did not do.

Hence, in the light of above discussion, the fact that the workman was in continuous employment of management in any capacity for a period of 240 days in any year as claimed by him, is held not proved. Issue no.-1 is answered accordingly.

Issue No.-2:-

On the basis of finding on issue no.-1, the workman is held entitled to no relief. No order as to cost.

In the light of above findings, following Award is passed.

AWARD

Holding the claim of union for regularizing the services of Umesh Verma not legal and justified, the reference is answered against the workman union. No order as to cost.

DATE: 22/05/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1264.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (46/2015) प्रकाशित करती है।

[सं. एल-12011/31/2015-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.46/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/31/2015 – IR (B-1)]

SALONI, Dy. Director

ANNEXURE

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

NO. CGIT/LC/R/46/2015

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

All India, State Bank of India Employees' Association,

C/o State Bank of India,

Shahpura Branch,

Bhopal (M.P.) - 462016

Workman

Versus

**The Chief General Manager,
State Bank of India,
L.H.O. Hoshangabad Road,
Bhopal (M.P.)**

Management

A W A R D

(Passed on this 18Th day of March-2024.)

As per letter dated 13/05/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/31/2015 (IR(B-I)) dt. 13/05/2015. The dispute under reference related to :-

" Whether the action action of the management of Chief General Manager, State Bank of India, Bhopal in terminating the services of workman Shri Balu Sahu w.e.f. 16.08.2012 is justified? If not, to what relief the workman is entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Workman never appeared in-spite of service of notice. He never submitted his statement of claim. Management filed their written statement of defence wherein they stated their case.

Workman never filed any evidence in this Tribunal. Management filed Affidavit of its witness. Heard argument of Learned Counsel Adv. Vijay Tripathi for management. None for workman.

I have perused the records. The reference is itself the issue. No evidence was ever produced by workman in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman absented himself and nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 18/03/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1265.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (48/2015) प्रकाशित करती है।

[सं. एल-12011/29/2015-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.48/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/29/2015 – IR (B-I)]

SALONI, Dy. Director

ANNEXURE

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

NO. CGIT/LC/R/48/2015

Present: P.K.Srivastava

H.J.S..(Retad)

**The General Secretary,
All India, State Bank of India Employees' Association,
C/o State Bank of India,
Shahpura Branch,
Bhopal (M.P.) - 462016**

Workman

Versus

**The Chief General Manager,
State Bank of India,
L.H.O. Hoshangabad Road,
Bhopal (M.P.)**

Management

A W A R D

(Passed on this 18Th day of March-2024.)

As per letter dated 13/05/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/29/2015 (IR(B-I)) dt. 13/05/2015. The dispute under reference related to :-

" Whether the action action of the management of Chief General Manager, State Bank of India, Bhopal in terminating the services of workman Shri Balram Dehariya w.e.f. 16.08.2012 is justified? If not, to what relief the workman is entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Workman never appeared in spite of service of notice. He never submitted his statement of claim. Management filed their written statement of defence wherein they stated their case.

Workman never filed any evidence in this Tribunal. Management filed Affidavit of its witness. Heard argument of Learned Counsel Adv. Vijay Tripathi for management. None for workman.

I have perused the records. The reference is itself the issue. No evidence was ever produced by workman in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman absented himself and nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 18/03/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1266.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (95/2015) प्रकाशित करती है।

[सं. एल-12011/50/2015-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.95/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/50/2025 – IR (B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/95/2015

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,
Rashtriyakrit Bank Karmachari Sanghthan,
F-1, Tripti Vihar, Opp. Engineering College,
Ujjain (M.P.)

Workman

Versus

The Asstt. General Manager,
State Bank of India,
RBO, Indore (M.P.)

Management

A W A R D

(Passed on this 12st day of March 2024)

As per letter dated 30/09/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/50/2015 (IR(B-I)) dt. 30/09/2015. The dispute under reference relates to:

“क्या श्रमसंघ राष्ट्रीयकृत बैंक कर्मचारी संगठन द्वारा श्री सुधीर चौहान लिपिक, भारतीय स्टेट बैंक शाखा शाजापुर, दिनांक 25.10.2007 से, 7 वर्षों की सेवा के बाद दिनांक 25.06.2014 को बिना सूचना और नोटिस पगार दिए बैंक सेवा से की गई बर्खास्तगी के कारण सेवा में पुर्ननियोजित करने, वेतन अंतर की राशि एवं बोनस राशि की मांग करना न्यायोचित है ? यदि हां तो श्री सुधीर चौहान किस अनुतोष के अधिकारी हैं ?”

After registering a case on the basis of reference received, notices were sent to the parties and were duly served on them. They appeared and filed their respective statement of claim and defense.

According to the workman he was first appointed by the then Branch Manager on 25.10.2007 as a daily wager casual worker and continuously worked for more than 240 days in every year. He was illegally terminated from services on 25.06.2014 under an oral order of the Branch Manager without any notice of compensation which is in violation of Section 25-F of the Industrial Disputes Act 1947, hereinafter referred by the word ‘Act’. He was not paid salary as provided in para 4.5 of the Desai Award 1966 which was admissible to the regular clerks. Also he was not paid bonus as per law. The workman has prayed his reinstatement with all back wages and benefits.

The management has taken a case that in fact he was not appointed as a clerk by the management of State Bank of Indore which merged with the State Bank of India. He was never disengaged by the management Bank as claimed by him. There has never been employer-employee relation between the parties. He owned firm M/S. Jay Maa Bhagwati Computers which was engaged for Data Entry and Computer job work for which he was paid as a proprietor of the firm. It is further stated that there have been rules regarding recruitment of staff in the Bank he was not recruited as per rules. Accordingly, management has prayed that the reference be answered against the workman.

The workman has filed a bundle of photocopy documents which he never cared to prove. He did not file any affidavit in support of his claim. Management has filed affidavit of its witness Rakesh Ranjan, Chief Manager as his examination in chief which is unexamined. None appeared from the side of workman for arguments no written argument was filed. Learned Counsel Shri Vijay Tripathi submitted his arguments for management. I have also gone through the record.

The reference itself is the issue for determination in the case in hand.

The initial burden to prove his claim is on the workman. He has miserably failed in discharging this burden by not proving photocopy documents and / or not examining any person as witness. On the other hand, the management witness has corroborated the case of the management which is uncontroverted.

In the light of above facts, holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of above facts, holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 12/03/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1267.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक भारतीय स्टेट बैंक के प्रबंधक, संबद्ध नियोजक और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (31/2015) प्रकाशित करती है।

[सं. एल-12012/21/2015-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/21/2015 – IR (B-1)]

SALONI, Dy. Director

ANNEXURE

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

NO. CGIT/LC/R/31/2015

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Deepak Kumar Singh,

S/o Shri Yograj Singh,

C/o Shri D.R. Singh,

H.No.5-A, Mall Road, Sadar Cantt.

Jabalpur (MP)

Workman

Versus

**The Branch Manager,
State Bank of India,
Personnel Banking, Branch Sadar,
Jabalpur Distt. Jabalpur (MP)
The General Manager,
State Bank of India,
Local Head Office, Hoshangabad Road,
Bhopal (MP)**

Management

A W A R D

(Passed on this 05st day of March 2024)

As per letter dated 09/03/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/21/2015 (IR(B-I)) dt. 09/03/2015 The dispute under reference relates to:

“ Whether the action of the management of Branch Manager, State Bank of India, Personnel Banking Branch, Sadar, Jabalpur/Chief General Manager, State Bank of India, Local Head Office, Bhopal (MP) in discontinuing the services of Shri Deepak Kumar Singh S/o Yograj Singh Ex-Peon wef 16.09.2010 and not absorbing him into State Bank of India from State Bank of Indore pursuant to the merging of State Bank of Indore into State Bank of India is just valid and reasonable? If not, what relief the workman is entitled to and from which date ?”

After registering case on the basis of reference received, notices were issued to the parties and were duly served on them. They appeared and have filed their respective statements of claim and defence.

Case of the workman, as taken in his statement of claim, is that he was an employee of the State Bank of Indore and was working on the post of peon on daily rated basis in the bank. Subsequently, the State Bank of Indore merged into State Bank of India. Because of this merger, the present Workman has been thrown out of employment due to no decision taken by the State Bank of India and State Bank of Indore for the continuity of services of the applicant Workman. It is further the case of the Workman that he was initially appointed in the Ranjhi branch of State Bank of Indore on September 1st, 1999. Subsequently he was transferred from Ranjhi branch to personal banking branch at Sadar under oral orders dated September 28th 2005 and worked there. Till the date of termination, which is September 16th 2010. He worked from the date of his initial appointment to the date of his termination. In the aforesaid branch of the State Bank of Indore. He was paid emoluments lesser than he was entitled to, but he accepted it under an assurance by the bank authorities that his services would be regularised in due course. The State Bank of Indore merged into State Bank of India vide Gazette notification dated September 28th, 2010 issued by the Central government approving the merger. It is further, the case of management that he had completed 240 days and more in every year, including the year preceding the date of his termination. He was not paid any compensation or notice as required. Hence, his termination is against section 25F & 23G of the Industrial Disputes ‘Act’, hereinafter referred to by the word ‘Act’. Accordingly, he has claimed that he be reinstated with all back wages and benefits, holding the termination of his services against law.

The case of management, as taken in their written statement of defence is mainly that the State Bank of Indore merged into the State Bank of India vide notification of Central government dated July 28th 2010 which came into force after expiry of 30 days that is August 27th, 2010 under clauses 7 & 8 of the merger document notification terms and conditions with regard to the permanent officers/officials of the erstwhile State Bank of Indore were provided. This provisions are as follows-

“7-Every permanent officer or other permanent employee of the transferor bank , including the officers and employees on probation (except the board of directors and executive trustees) serving in the employment of the transferor bank immediately before the effective date shall hold its office or service therein, in the transferor bank on such terms and conditions as may be approved by the Central board of transferee bank and shall continue to work as an officer or, as the case may be, employees of the transferee bank.

Provided that the pay and allowances offered to the officers or employees of the transferor bank shall not be less than shall not be less than overall pay and allowances as they would have drawn in transferor bank.

8-The officers or employees of the transferor bank shall be given an offer of employment or option letter in writing by the transferee bank and where an officer or other employee of the transferor bank does not exercise any option, within a period of 15 days from the date of the option letter given for exercising the option, to be in an employment of the transferee bank, such officer or employee shall be deemed to have accepted to continue in service of the transferee bank.

Notwithstanding anything contained in Industrial Disputes ‘Act’ 1947 (14 of 1947), or in any other law for the time being in force, the transfer of services of any officer or other employee of the transferor bank to the transferee bank shall not entitled such officer or employee to any compensation under the provisions of the said Industrial Disputes ‘Act’ 1947, or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or any other authority”

Thus, according to management, since the Workman himself claims to have been engaged by the erstwhile State Bank of Indore as a daily wager on temporary basis, he is not entitled to the option under the notification dated July 28th 2010 and has no right to continue in the service of the State Bank of India. Also, it has been pleaded by management that the Workman remained in continuous service only for 140 days in the year preceding the date of his alleged termination. Hence he was not entitled to any compensation or notice and also that the Workman be asked to prove the fact of his continuous employment with the management bank for 240 days or more in the year preceding the date of his termination. Accordingly, management has prayed that the reference be answered against the Workman.

In evidence, the workman has filed and proved documents Ex W1 to ExW26, which are payment vouchers for different periods up to September 16th 2010, are issued by the State Bank of Indore. It is further to mention here that the workman filed an application seeking direction to management to produce documents mentioned in the application, which was allowed wide order dated December 6th 2019. But management did not file any original document as directed. The Workman examined himself and has been cross-examined by management side. Management has examined its witness who has been cross-examined from the Workman side.

I have **heard argument** of learned counsel, Mr Aditya Ahiwasi for Workman and Mr Pranay Chaubey for management and have gone through the record as well.

On the perusal of record in the light of rival arguments, following issues come up for determination in the case in hand.

1-Whether the State Bank of India that is the transferee bank is under obligation to absorb the applicant Workman who was engaged by the State Bank of Indore that is the transferor bank on daily basis as a casual daily wager and terminated by the transferor bank itself ?

2-Whether the Workman successfully proved his continuous employment of 240 days with the State Bank of Indore in the year preceding the date of his termination by the State Bank of Indore ie, the transferor bank.

Issue number one-

Not disputed is the fact that the erstwhile State Bank of Indore merged into the State Bank of India wide notification of Central government approving this merger, details referred to above. The paragraph 7 and 8 of this notification have been reproduced earlier, which go to show that only services of the permanent staff of the transferor bank, including the probationers were transferred to the transferee bank. This notification nowhere mention about the transfer of services of the daily wager or temporary workers working in the transferor bank at the time of merger. **Hence, the applicant Workman cannot claim transferor of his services to State Bank of India that is the transferee bank as a daily wager as it will be against the provisions of merger route notification.** Para 8 of the notification. As referred to above, transfer of services of any officer or employee of the transferor bank to the transferee bank shall not entitle him to any compensation under the provisions of Industrial Disputes ‘Act’ 1947.

Hence, the workman cannot be held entitled to any compensation with respect to transferor or non-transfer of his services to State Bank of India also.

Issue number one is answered accordingly.

Issue number two –

Section 25 B of the ‘Act’, requires to be mentioned here and is being reproduced as follows –

2[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.

Explanation.- For the purpose of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-

- (i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;
- (ii) he has been on leave with full wages, earned in the previous year; (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

Case of the Workman is that he worked with the State Bank of Indore for a period of more than 240 days in continuous service every year, including the year preceding the date of his termination, which is September 16th 2010. The opposite side has denied this claim and has stated that in fact the workman worked only for 142 days in the year preceding the date of his termination. Both said witnesses have corroborated their this case in their statements on oath. Workman has filed and proved certain photocopy vouchers which are from the year 2004 to September 16th 2010, issued by State Bank of Indore indicating payment to the workman. They are ExW54 to ExW59. Total amount paid under these vouchers is Rs 1000 +1200 +300+300+1200+1950 total Rs 5950/-. This is not sufficient to hold that the Workman worked for 240 days continuously in the year preceding the date of his termination and this claim of the workman is held not proved.

Workman side has relied division bench judgement of High Court of MP in WP No 1413 to 1437/2018. With regard to submission of learned counsel for the workman that after his retrenchment is held against the 'Act', he becomes entitled to reinstatement. This judgement will not help him. Because the claim of the applicant Workman that he worked continuously for a period of 240 days in the year preceding the date of his termination has not been held proved.

In the light of above findings, the termination of services of the workman cannot be faulted in law and fact and issue number two is answered accordingly.

In the light of findings recorded on issue number one and two, the reference deserves to be answered against the Workman and is answered accordingly by way of following award.

AWARD

Holding the action of management of Branch Manager, State Bank of India, Personal Banking Branch Sadar Jabalpur/Chief General Manager, State Bank of India, Local Head Office, Bhopal (MP) in discontinuing the services of Sri Deepak Kumar Singh s/o Sri Yograj Singh Ex , peon w.e.f. September 16th , 2010 and not absorbing him to State Bank of India from State Bank of Indore, pursuant to merging of State Bank of Indore into State Bank of India, is held justified in law.

The Workman is held entitled to no relief. No order as to cost.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 05/03/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1268.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जबलपुर** के पंचाट (151/2017) प्रकाशित करती है।

[सं. एल-12012/37/2017-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.151/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/37/2017 –IR (B-I)

SALONI, Dy. Director

ANNEXURE

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

NO. CGIT/LC/R/151/2017

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Raghuvver Prasad Patel,

S/o. Shri. Late Malthu Patel,

R/o. Ward No.6, Shahpur,

Sagar (M.P) – 470669

Workman

Versus

The Branch Manager,

State Bank of India,

Shahpur(Ganjeshganj),

Branch Code No. 12182,

Near CEO Office,

Dist. Sagar (M.P) - 470669

Management

A W A R D

(Passed on this 06Th day of March-2024.)

As per letter dated 07/11/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/37/2017 (IR(B-I)) dt. 07/11/2017. The dispute under reference related to :-

- " a) **Whether the action of the management of State Bank of India, Shahpur (Ganjesh Ganj) M.P, in removing Shri Raghuvver Prasad Patel, Messenger from service of the Bank w.e.f 10.03.2015, inspite of the fact that he worked there continuously for the period from 03.11.2009 to Feb.2015, if fair, legal and justified? If not what relief the workman is entitled to?**
- b) **Whether the demand of the workman for payment of wages to him for period August, 2012 to Sept. 2013 and Fe,2015, is valid, legal and justified? If yes what relief the workman is entitled to? "**

After registering the case on reference received, notices were sent to the parties and were duly served on them. Parties appeared and have filed their respective statements of claim and defence.

Thereafter the workman absented himself and never appeared. He never filed any evidence in this Tribunal. Management also did not filed any evidence.

I have perused the records. The reference is itself the issue. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman absented himself and nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1269.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसबीआई कार्ड प्रतिनिधि के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (07/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर.(बी-1)-169]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.07/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bhubaneswar* as shown in the Annexure, in the industrial dispute between the management of SBI Card Rep and their workmen.

[No. L-12025/01/2024 –IR (B-I)-169]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 07/2021

Date of Passing Order – 27th October, 2023

Between:

1. The Chief Executive Officer (Mr. Manish Kumar),
INNOV, A-3, Kailash Industrial Complex,
Park Site, Vikhota (W), Mumbai – 400 079.
2. The Managing Director & CEO, SBI Card Rep,
DLF Infinity Tower-C, 12th Floor, Block-ii,
Building-3, DLF Cyber City, Gurgaon-122 002, Haryana.
3. Innovsource Servicers Pvt. Ltd., A/410,
3rd Floor, Metro House, Vani Vihar,
Bhubaneswar – 751 007.

... 1st Party-Managements.

(And)

Miss. Aliva Behera, D/o. Suresh Chandra Behera,
Rajabagicha, Badhei Sahi, Cuttack Town,
Telenga Bazar, Cuttack – 753 009.

... 2nd Party-Workman.

Appearances:

None. ... For the 1st Party-Managements.
None. ... For the 2nd Party-Workman.

O R D E R

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide order No. 8(56)/2020-B.II/Adj/2021-B.I, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the termination of service of workman Miss Aliva Behera by the Contractor Innovsource Services P Ltd violating Section 25-F of the Industrial Disputes Act, 1947 is legal and/or justified? If not what relief the workman is entitled to?”

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.
3. Despite directions so given, no statement of claim is received from the 2nd party-workman.
4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notices, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.
5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.
6. In view of such, no claim Order is passed by this Tribunal.
7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dictated & Corrected by me.

Sri DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1270.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईस्ट कॉस्ट रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (36/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024-आई.आर.(बी-I)-170]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.36/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bhubaneswar* as shown in the Annexure, in the industrial dispute between the management of East Cost Railway and their workmen.

[No. L-12025/01/2024 –IR (B-I)-170]

SALONI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR**

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 36/2021**Date of Passing Order – 29th February 2024**

Between:

The Managing Director, M/s. Oriental Security
Service, Plot No. 588, At./Po. Sahidnagar,
Bhubaneswar, Khordha, Odisha – 751 009.

The Chief Project Director,
C/o. East Coast Railway, Railway Electrification,
Rail Vihar, C.S. Pur, Bhubaneswar – 21.

... 1st Party-Managements.

(And)

The Secretary, All India Central Council of Trade Union (AICCTU),
A-13, Nagabhusan Bhavan, Ashok Nagar, Bhubaneswar,
Khordha, Odisha – 751 009.

... 2nd Party-Union.

Appearances:

None. ... For the 1st Party-Managements.None. ... For the 2nd Party-Union.**O R D E R**

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide order No. 8(54)/2020-B.II/Adj/2021-B.I, dated 15.07.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the action of the management of M/s. Oriental Security Service, Contractor of East Coast Railway, Bhubaneswar in terminating the services of 32 number of workmen (List enclosed) by denying retrenchment compensation as per Section 25-F of the I.D. Act, 1947 is legal and/or justified? If not, what relief the workmen are entitled to?

2. In the reference order, the Deputy Chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 27.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to

abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Sri DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1271.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पूर्वी तट रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (31/2022) प्रकाशित करती है।

[सं. एल-41011/49/2022-आई.आर.(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.31/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bhubaneswar* as shown in the Annexure, in the industrial dispute between the management of East Coast Railway and their workme

[No. L-41011/49/2022 –IR (B-I)

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 31/2022

Date of Passing Order – 13th December, 2023

Between:

The Managing Director,

M/s. Supreme Facility Pvt. Ltd.,

1. L.V. Shinde Group 120/121 A, 1st Floor,
Jayaganesh Vision, Akruadi, Pune,
Maharashtra – 411 035

2. The D.R.M.,
East Coast Railway, Khurda Road, Jatni,
Khurda, Orissa – 752 055.

... 1st Party-Managements.

(And)

General Secretary,
East Coast Railway Contract Sharmik Union,

Plot No. 32, Ashok Nagar, Bhubaneswar (Orissa),

Pin – 751 009.

... 2nd Party-Union.

Appearances:

None. ... For the 1st Party-Management.

None. ... For the 2nd Party-Workman.

O R D E R

In the present case, a reference was received from the Government of India, Ministry of Labour, New Delhi vide letter No. L. No. 41011/49/2022 – IR(B-I), dated 04.08.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

“Whether the demand of the East Coast Railway Contract Shramik Union against the contractor of M/s. Supreme Facility Pvt. Ltd., in the establishment of East Coast Railway, Jatni, regarding the termination of services of 300 workers (list enclosed) without giving termination/compensation benefits is legal and/or justified? If yes, what relief the workmen are entitled to?

2. In the reference order, the Under Secretary to Government of India commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Union opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party-Union on 28.11.2022 for appearance and for filing of statement of claim. Pursuant to the notice, the General Secretary of the 2nd Party Union though appeared on 22.06.2023 has filed a petition that for withdrawal of the case as concerned workmen are not interested to pursue the case. Thus, it is clear that the 2nd Party-Union is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Union has neither filed statement of claim nor has led any evidence so as to prove its cause against the Managements, hence there is no claim of the 2nd Party-Union against the Managements. .

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dictated & Corrected by me.

Sri DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1272.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक (ई-इलाहाबाद बैंक)के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय भुवनेश्वर के पंचाट (16/2021) प्रकाशित करती है।

[सं. एल-L-39025/01/2024- आई.आर.(बी-I)-25]

सलोनी, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bhubaneswar* as shown in the Annexure, in the industrial dispute between the management of Indian Bank (e-Allahabad Bank) and their workmen.

[No. L-39025/01/2024-IR (B-I)-25]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 16/2021

Date of Passing Order – 29th February 2024

Between:

The Branch Manager,
Indian Bank, (e-Allahabad Bank),
Jajpur Road Branch, Jajpur.

... 1st Party-Management.

(And)

1. AOABEU, Sambalpur,
Odisha – 751 002.
2. Sri Jitendra Kumar Rout,
Bhubaneswar, Khordha, Odisha – 751002.

... 2nd Party-Union/Workman.

Appearances:

None. ... For the 1st Party-Management.

None. ... For the 2nd Party-Workman.

O R D E R

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide order No. 7(08)/2020-B.II/ADJ/2021-B.I, dated 19.03.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the action of the management of Indian Bank (e-Allahabad Bank) in terminating the services of Sri Jitendra Kumar Rout, Casual Worker of Bank’s Jajpur Road Branch since 1st February, 2020 after extracting his services for a long 23 years is legal and/or justified? If not what relief the workman is entitled to?”

2. In the reference order, the Deputy Chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 06.01.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dictated & Corrected by me.

Sri DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोल् इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 01/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/06/2024 को प्राप्त हुआ था

[सं. एल-22012/44/2020-आई.आर. (सी.एम.-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the Management of Coal India Ltd. and their workmen received by the Central Government on 18/06/2024

[No. L-22012/44/2020- IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. NT-01 OF 2020

Parties: Employers in relation to the management of

Coal India Limited & Ors

AND

Their Unions/Workman

Appearance:

On behalf of Management of Coal India Ltd. and its subsidiary companies: Absent.

On behalf of the Unions/Workmen: Absent.

Dated: 10th July, 2023

A W A R D

Neither the representative of the management nor the representatives of the Unions are found present when the matter is called.

The record shows the management had put their appearance through their respective Lawyers and also some of the Unions had put their appearance through their authorised representatives, but since 21-03-2023 the Unions have failed to appear and filed the claim statement. On the previous date i.e. on 17-05-2023 too representative of the Unions were found absent. So, a presumption can be drawn the Unions are no more interested to pursue with the disputes espoused by them.

This is a reference case of 2020 and till date the Unions have failed to file their claim statements. Therefore, in view of the Rule 22 of Industrial Dispute Rules, 1957 this Tribunal decides to dispose of the reference on the basis of the materials available on the record.

The Central Government, Ministry of Labour by order No. L-22012/44/2020-IR (CM-II) dated 25-11-2020 in exercise of the power conferred under section 10 (1) (d) and (2A) of the Industrial Dispute Act, referred the following issue for adjudication by this Tribunal:-

“Whether the charter of demand as at Sl. No.4 which is submitted vide dated 31-07-2020 by trade union federations of Coal India operating in respect of Coal India and its subsidiary companies for implementation of High

Power Committee (HPC) Wages in respect of all contract labours of Coal India Ltd. and subsidiary companies is legal and justified? If yes, from which date the wages shall be implemented upon and to which category other than the contract labour engaged in mining operations, the HPC wages shall cover? If no, to what relief the trade unions/federations will be entitled to?"

Unfortunately, except the order of reference there is no materials in the record to substantiate /justify the demand made by the Unions/Federation.

That apart non-appearance of the Unions and their failure to file claim statement even after lapse of two and half years of the reference a presumption can be drawn that the Unions/Federations have no grievances against the management of Coal India Ltd. and its subsidiary companies.

In view of the above no dispute award is passed. Accordingly Reference No. NT-1 of 2020 is disposed of.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 20 जून, 2024

का.आ. 1274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **कोल् इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, कोलकाता** के पंचाट (संदर्भ संख्या 52/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को **18/06/2024** को प्राप्त हुआ था।

[सं. एल-22012/130/2013-(आई.आर.सी.एम.-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 20th June, 2024

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 52/2013**) of **the Central Government Industrial Tribunal-cum-Labour Court, Kolkata** as shown in the Annexure, in the industrial dispute between the Management of **Coal India Ltd.** and **their workmen** received by the Central Government on **18/06/2024**.

[No. L-22012/130/2013- IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.52 OF 2013

Parties: Employers in relation to the management of

Coal India Limited

AND

Their Workmen

Appearance :

On behalf of Management, **Coal India Ltd.** : None

On behalf of the Workman / **Union** :None

Dated 05th June, 2023

A W A R D

Today too like on the two previous dates the, Union and its authorised representative are found absent when the matter is called.

The Management of Coal India too is found absent and none appears on its behalf when the matter is called.

Record shows the case has been fixed for evidence from the side of the Management on 05.03.2019 when the Union inspite of several opportunity given to it had failed to adduce evidence.

Such conduct of the part of the Union further goes to prove that it is not interested to pursue the dispute raised by it.

Record further shows that Union has stopped taking any step since 07.04.2016 but had suddenly put appearance through Mr. Asit Banerjee, Ld. Advocate on 30.11.2022, but thereafter again it has stopped appearance and did not bother to set aside the order dated 05.03.2019 and adduce evidence in support of its claim statement.

Therefore, in the record there is neither oral nor documentary evidence adduced by the Union in support of its case and claim.

Under the circumstances, the tribunal unable to adjudicate the issue under reference “ Whether the action of the management of Coal India Limited in not redressing 19 points charter of demands given by the Union in their Hunger Strike Notice dated 03.09.2012 to the satisfaction of the Union is justified? If not, what relief the Union is entitled to?”.

Such issue has been referred by the Central Govt., Ministry of Labour’s letter No. L-22012/130/2013-IR(CM-II) dated 03.10.2013 to this Tribunal for adjudication.

In the above reference case No. 52 of 2013 is disposed of and “No Dispute” Award is passed

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 21 जून, 2024

का.आ. 1275.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार *यूनियन बैंक आफ इंडिया* के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (07/2012) प्रकाशित करती है।

[सं. एल-12011/50/2017-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 21st June, 2024

S.O. 1275.—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 Lucknow* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12011/50/2017-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 07/2012

Ref. No. L-12011/50/2017-IR(B-II) dated 10.11.2017

BETWEEN

The General Secretary, Uttar Pradesh Bank Asthai Karamchari Union 3/192, Viram Khand, Gomtinagar, Lucknow – 226010

AND

1. General Manager, Union Bank of India, FGM Office, Vibhuti Khand, Gomtinagar, Lucknow-226010
2. The Chairman & Managing Director, Union Bank of India, 239, Vidhan Bhawan Marg, Nariman Point, MUMBAI - 400021

AWARD

By order No. L-12011/50/2017-IR(B-II) dated 10.11.2017 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

“क्या प्रबंधन, यूनियन बैंक आफ इंडिया, मुम्बई व लखनऊ द्वारा श्री राजकुमार व 06 अन्य को सेवा में अर्जाब न कर सेवा में नियमित न किया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

Accordingly, an industrial dispute No. 51/20172 has been registered on 27.12.2017.

From the perusal of record, the position which emerge out is that on 11.06.2018 the claimant filed statement of claim and in reply thereto respondent filed its preliminary objection as well as written statement on 16.03.2020.

However, claimant did not file its rejoinder affidavit inspite of several opportunities.

From the perusal of order sheet, it appears that neither workman nor his authorized representative has appeared to press the case on behalf of the claimant since 24.02.2023.

Accordingly, after hearing Sri Gaurav Gunjan, learned authorized representative of the opposite parties and taking into consideration the facts the position which emerges out is that as no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

Taking into consideration the above said facts as well as the law laid by Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

“The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519** has held as under:

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed.”

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

05th March, 2024

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 21 जून, 2024

का.आ. 1276.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (41/2012) प्रकाशित करती है।

[सं. एल-12011/53/2011-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 21st June, 2024

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.41/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of *Central Bank of India* and their workmen.

[No. L-12011/53/2011-IR (B-II)]

SALONI, Dy. Director

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 41/2012

Ref. No.-L-12011/53/2011-IR(B-II), dated 13.03.2012

BETWEEN

General Secretary,
Central Bank Employees Congress U.P.
MIG C-1241, Rajajipuram,
Lucknow U.P.

..... **Workman**

AND

1. The Regional Manager
Central Bank of India Regional Office
AD Tower, Bank Road, Gorakhpur U.P.
2. Branch Manager
Central Bank of India, LBS Degree College Branch Gonda (U.P.)

..... **Respondent**

AWARD

By an order dated 13.03.2012 following reference has been referred to this Tribunal for adjudication.

“Whether the demand of the Union to post Sri Ram Gopal, Part Time Safai Karmachari, as Full Time from the date of his appointment and posting him as Sub-Staff/Clerk will all due benefits w.e.f. 07.01.1997 is just and proper ? What relief the concerned workman is entitled to?”.

On behalf claimant claim petition has been filed with the following prayer:-

अतएव माननीय न्यायाधिकरण से विनम्र प्रार्थना है कि प्रार्थी के सम्बन्ध निम्नलिखित आदेश पारित करने की कृपा की जायें।

1. यह कि प्रार्थी को दिनांक 07.1.1997 ये फुल टाइमर घोषित किया जाये।
2. यह कि 07.1.1997 से समस्त एरियर व अन्य हितलाभ दिलाया जाये।
3. यह कि वाद का उचित परिव्यय भी दिलाया जाये।

On 10.09.2013/08.10.2013 an application has been moved on behalf of claimant thereby bringing document as mentioned therein on record.

On 7th July 2014 on behalf of respondent written statement was filed.

During the pendency of the present claim petition claimant has died as such Sri G.P. Mihsra General Secretary of the Central Bank Employees Congress U.P. moved an application dated 15.03.2024 today thereby bringing the death certificate of late Ram Gopal on record.

He further submits that as Sri Ram Gopal part time Safai Karmchhari on behalf of present dispute filed by the Union has died so the controversy in the present has become infructuous.

Accordingly he request that the case may dismiss as infructuous.

For the foregoing reasons claim statement filed by workman, stands dismiss as not pressed reference under adjudication answer accordingly.

Award as above.

Lucknow.

Date 20.03.2024

Let two copies of this award be sent to the Ministry for publication.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 24 जून, 2024

का.आ. 1277.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कृषक भारती कॉआपरेटिव लिमिटेड के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रचालन से छूट प्रदान करती है तथा यह छूट राजपत्र में इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; #अर्थात्:-

- (1) कारखाने और स्थापनाएं छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेंगी;
- (2) कर्मचारी उक्त अधिनियम के अधीन ऐसे फायदे प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट प्रदान करने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने और स्थापना का नियोजक उस अवधि की बाबत जिनके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रचालन के अधीन था ऐसी विवरणियां, ऐसे प्ररूप से और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थी;
- (5) उक्त अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस प्रयोजन के लिए इस निमित्त प्राधिकृत कोई अन्य पदधारी-
 - (i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रयुक्त किसी विवरण में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या
 - (ii) यह अभिनिश्चयन करने के लिए कि उक्त अवधि के लिए कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख रखे गए थे या नहीं; या
 - (iii) यह अभिनिश्चयन करने के लिए कि कर्मचारी, नियोजक द्वारा दिए गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या
 - (iv) यह अभिनिश्चयन करने के लिए कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा-
 - (क) प्रधान या अव्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है; या
 - (ख) ऐसे प्रधान या अव्यवहित नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे

निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना:

(ङ) यथास्थिति ऐसी अन्य शक्तियों का प्रयोग करना।

(6). विनिवेश या निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/07/2020-एस एस-1]

डी. एम. खरे, अवर सचिव

New Delhi, the 24th June, 2024

S.O. 1277.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of Krishak Bharti Cooperative Limited from the operation of the said Act and the exemption shall be effective for a period of one year from the date of publication of this notification in the Official Gazette.

2. The exemption is subject to the following conditions, namely:-

(1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees';

(2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;

(3) the contribution for the exempted period, if already paid, shall not be refundable;

(4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, shall, for the purpose of —

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment to be empowered to —

(a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of the Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register, account

book or other document maintained in such factory, establishment, office or other premises; or

(e) exercise such other powers as may be specified.

(6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and then the new entity may apply to the appropriate Government for exemption.

[No. S-38014/07/2020-SS-I]

D. M. KHARE, Under Secy.

नई दिल्ली, 24 जून, 2024

का.आ. 1278.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पवन हंस लिमिटेड के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रचालन से छूट प्रदान करती है।

2. यह छूट राजपत्र में इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

3. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

(1) कारखाने और स्थापनाएं छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेंगी;

(2) कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट प्रदान करने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

(3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(4) उक्त कारखाने और स्थापना का नियोजक उस अवधि की बाबत जिनके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रचालन के अध्यक्षीन था ऐसी विवरणियां, ऐसे प्ररूप में और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थी;

(5) निगम द्वारा उक्त अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस प्रयोजन के लिए इस निमित्त प्राधिकृत कोई अन्य पदधारी-

(i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रयुक्त किसी विवरण में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या

(ii) यह अभिनिश्चयन करने के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या

(iii) यह अभिनिश्चयन करने के लिए कि कर्मचारी, नियोजक द्वारा दिए गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या

(iv) यह अभिनिश्चयन करने के लिए कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है; या

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना:

(ङ) यथास्थिति ऐसी अन्य शक्तियों का प्रयोग करना।

(6). विनिवेश या निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट के लिए समुचित सरकार को आवेदन करना होगा।

[सं. एस-38014/02/2020-एस एस-1]

डी. एम. खरे, अवर सचिव

New Delhi, the 24th June, 2024

S.O. 1278.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of Pawan Hans Limited from the operation of the said Act.

2. The exemption shall be effective for a period of one year from the date of publication of this notification in the Official Gazette.

3. The exemption is subject to the following conditions, namely:-

(1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees;

(2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;

(3) the contribution for the exempted period, if already paid, shall not be refundable;

(4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it shall for the purpose of, —

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment

to be empowered to —

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary for the purpose of this Act; or

- (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
- (d) make copies of or take extracts from any register, account, book or other document maintained in such factory, establishment, office or other premises; or
- (e) exercise such other powers as may be specified.
- (6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and the new entity may apply to the appropriate Government for exemption.

[No. S-38014/02/2020-SS-I]

D. M. KHARE, Under Secy.

नई दिल्ली, 25 जून, 2024

का.आ. 1279.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट **(09 (C) of 2021)** प्रकाशित करती है।

[सं. एल -12025/01/2024- आई.आर.(बी-1)-171]

सलोनी, उप निदेशक

New Delhi, the 25th June, 2024

S.O. 1279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (09 (C) of 2021) of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2024- IR(B-I)-171]

SALONI, Dy. Director

ANNEXURE

Before The Presiding Officer,

Industrial Tribunal, Patna.

Reference Case No.:- 09 (C) of 2021

Between the management of the Regional Manager, State Bank of India, Region-II, Patna Central Administrative Office, J.C. Road, Patna-800001 And their workman Sri Manoj Kumar, Special Assistant, S/O- Late Sheodutta Prasad Singh, Village & P.O Khatangi, P.S- Manikpur, Kurtha, Dist.- Arwal, Bihar-824235.

For the management:- Shri Rashmi Rathi Sharma, Manager (Law), SBI,
Administrative office, Patna.

For the workman:- Sri Bindeshwar Prasad (B. Prasad), Advocate.

Present:- **Manoj Shankar**
Presiding Officer,
Industrial Tribunal, Patna.

A W A R D

Patna, dt-10th May, 2024.

By the adjudication order no.- 1/ID(7)/2021/Dy CLC-Pt dated- 06.05.2021 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under clause (d) of sub-section-(1) of Section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between the management of the Regional Manager, State Bank of India, Region-II, Patna Central Administrative Office, J.C. Road, Patna-800001 And their workman Sri Manoj Kumar, Special Assistant, S/O- Late Sheodutta Prasad Singh, Village & P.O Khatangi, P.S- Manikpur, Kurtha, Dist.- Arwal, Bihar-824235 for adjudication to this tribunal:-

SCHEDULE

“Whether the action of the management of State Bank of India, Patna Bihar in imposing punishment of Removal of services of Shri Manoj Kumar, Special Assistant, is just and proper? If not, to what relief the workman concerned is entitled to?”

2. As per the statement of claim, the workman Manoj Kumar, aged about 52 years has been removed from the service by the management bank on fictitious allegation and without affording him due opportunity of defence is clear violation of the principles of natural justice and then Industrial Dispute has been arisen in terms of Section-2A of the I.D.Act in the circumstances, the workman seeks prayer that the respondent opposite party bank be directed to reinstate the appellant / workman in service with all consequential benefits. It is further asserted that the workman was appointed in the management bank as clerk-cum-cashier on 05.09.1992 on compassionate grounds after the sad demise of his father in harness. It is further asserted that the workman was promoted as Senior Assistant in May 2005 and further as Special Assistant in May 2013. It is further alleged that while he was posted as Special Assistant at Frazer Road Branch of the management bank , a fictitious allegation of siphoning of cash from SWO Box / Drawer was levelled against the workman and he was placed under suspension and after enquiry proceedings without following principle of natural justice and without giving to the appellant workman due opportunity of defence, the penalty of Removal was imposed upon him. The appeal of the appellant workman was also dismissed without application of mind. It is further asserted that on 09.03.2016 the workman received the cash box from the cash officer of the branch and after tallying the physical cash in the box with the cash reflected as his hand balance in the system. It is further stated that immediately after commencement of business, representatives of one Kamlesh Kumar Singh holder of account number 10151352014 presented a cheque bearing no.- 909066 for cash payment but the cheque was not in order as the amount in words and figure did not match and as such, payment was denied by the workman but the representative of the customer again requested that payment be made and some one was waiting at the residence of the account holder for the payment. The representative also assured that they would bring a fresh cheque, complete in all respect, within no time. A copy of the said cheque is enclosed as annexure-2. It is further asserted that account holder Kamlesh Kumar Singh, is a high net worth individual and transaction in his account exceeded Rs. 50.00 Lakh per month. It is further asserted that the representative who had come to obtain was permanent employee of the account holder and used to come to the branch quite often then the workman retained the discrepant cheque and made payment in good faith where after one representative stayed while the other left cash back. It is further asserted that the workman was under radar of the branch management because of his union activities and it appears that some one closed to the Branch Manager watched the entire episode and immediately reported the same to the Branch Manager who in order to frame the workman immediately arranged for surprise verification of cash and since a payment had been made without posting the cheque in the respective account, shortage of Rs. 98,500/ was found at the material time. It is further asserted that the Branch Manager also arranged for second verification of cash by Regional Business Official (RBO) and the result was same – shortage of cash was found. It is further asserted that the workman tried to convince of the branch and also officials of the controlling office about his bonafides and honest motive and so but nothing is heard by the official in the meantime workman was browbeaten, coerced and hoodwinked to give admission of guilt in writing. It is further asserted that appellant workman was in nervousness told the employee of the account holder waiting outside the counter and then he telephoned his colleague to come a fresh cheque immediately since the account holder was not available at the relevant time, hence the employee came to the branch after some time with the cash paid. It is further asserted that even then workman was placed under suspension on same date i.e 09.03.2016 and he was attached to Belaon branch of the SBI for the purpose of drawing subsistence allowance. It is further asserted that even after shortage of cash was detected in the surprise cash verification, the workman was not removed from the counter and was allowed to work for the whole day and the letter of suspension was served on him only in the late evening. It is further asserted that the workman made appeal against the suspension to the Deputy General Manager & Appellate Authority narrating entire episode and his bonafide actions / intentions and also made prayer all the episode can be verified from CCTV footage but they rejected the appeal without application of mind and without examining the CCTV footage. It is further asserted that Regional Manager of the management bank called a explanation from the workman on dt- 24.06.2016 for which a cogent reply is given by the workman within the stipulated time on 01.07.2016 wherein he narrated all the episode of transaction and about his bonafide intention and he had acted to protect the interests of the bank without putting the bank any risk. It is further asserted that in his explanation he narrated the short fall in the cash was deposited by the representative by the customer and not by him as alleged because he never went out of the branch premises to arrange for cash. It is further asserted that the explanation was not satisfactory by the management bank and charge sheet was issued on 04.08.2016

but charge sheet was signed by the Regional Office not by Disciplinary Authority and so charge sheet is defective and void. It is further asserted that the charge sheet served on the workman contained two allegations one of which related to shortage of cash of Rs. 98,500/- and the other charge was on being point out the workman subsequently deposited the amount of shortfall. It is further asserted that the enquiry proceeding commenced on 24.08.2016 and concluded on 21.10.2018 without the following principle of natural justice. Enquiry Officer submitted his report on 28.10.2016. The appellat workman made his submission to the findings of enquiry officer vide representation dt-21.11.2016 pointed out that CCTV footage was

deliberately been destroyed but his representation was not be considered and disciplinary authority issued second show cause notice dt-25.11.2016 advising therein tentative penalty of "Removal of service with superannuation benefits as would be due otherwise and without disqualification from future employment in terms of clause 6(b) of the memorandum of settlement dt- 10.04.2002. It is further asserted that workman also granted of personnel hearing appellat workman appeared before the Appellate Authority cum Regional Manager for personnel hearing on 15.12.2016 and he submitted his written submission before the disciplinary authority disclosing enquiry officer had not acted as independent quasi-judicial authority. Moreover, who proposed punishment was far in excess to the gravity of misconduct, particularly as the mistake on his part of bonafide and bank had not suffered any loss but his submission was rejected. It is further asserted that workman preferred appeal to the Deputy General Manager-cum-Appellate Authority with his representation on 01.02.2017 ground mentioning therein to absolve him of the allegations has biased enquiry was conducted against him and he also apprised the Appellate Authority most vital piece of evidence CCTV footage branch not produced in the enquiry despite his prayer but appeal Appellate Authority rejected his prayer in a mechanical way and communicated the order on 19.06.2017. it is further asserted that appellat workman due to his eagerness to provide better customer service he committed some minor but bonafide lapse when he paid the cash amounting to Rs. 98,500/- to the representative of valuable customer without posting the relative cheque into the account. It is further asserted that date of cash verification of cash box of the appellat by official of RBO was on 09.03.2016 and the workman raised the issue of CCTV footage in his appeal against the suspension order on 19.04.2016 but non-retention of CCTV footage appears to be deliberate and amounts to destruction of evidence. It is further asserted that the management bank has proceeded to inflict upon workman one of the gravest penalties rendering him jobless without any legal evidence and without providing him with a fair opportunity of defence. It is further asserted that enquiry officer also played a partisan role and acted as an agent of the prosecution this is evident from his findings of the enquiry report. It is further alleged that the allegation no.-2 is quite vague as the appellat never left the branch premises and as such he had no occasion to arrange for the cash. The fact is cash was brought by the representative of the account holder and at the end of the day the same was accounted for. It is further asserted that both the charge have been found proved by the enquiry officer in a biased manner. Enquiry officer has not worked to find due of the truth rather he has completed the formality of quasi-judicial functionary. It is further asserted that as per clause 5(j) of the memorandum of settlement dt- 10.04.2002 i.e basis of the charge sheet against the appellat workman and the penalty imposed upon him. **"Clause-5 (j) read as doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bankin serious loss"** here appellat workman was not at all negligence and his bonafide action was neither prejudicial of the bank and nor was likely to involve to serious loss. As the discrepant cheque was available. It is further asserted that officers of the bank was biased against the workman is apparent from the fact to harass the workman they lodged an FIR on 16.03.2016 alleging that the workman had misappropriated bank's money and had caused loss to the bank but the fact is that the amount found shorted was deposited on the same day. It is further asserted that appellat workman applied for terminal dues after removal from the service. Showing bank should not be taken as waiver of his rights to challenge the punishment order then he agitated the dispute before the conciliation officer (RLC (C) Patna) and thus the workman seeks prayer to quash the order of punishment about removal of service and direct the bank to reinstate the workman in service with all consequential benefits.

3. On the other hand management bank filed written statement stating therein the present Industrial Dispute is bad in law as being belated and hence after lapse of more than three years from the date of removal from the service on 20.12.2016. It is further asserted that all the contents of the statement of claim of the workman is vague and baseless and as such the same does not deserve any consideration. It is further asserted that the recorded date of birth of the workman is 15.09.1967. It is further asserted that the workman was also earlier imposed penalties i.e (a) penalty of stoppage of one increment for one year vide letter no.- ZO/DGM/DPS/31/05/2002; & (b) penalty of bringing down to lower stage in the scale of pay by two stages for a period of two years vide letter no.- RM / I / HR / SKS /41 dated- 13.05.2014. Both the copy of penalties are enclosed and marked as Ext.- M/1 & M/2. It is further asserted that on 05.03.2016 cash drawer was locked on 05.03.2016, 06.03.2016 was Sunday. The workman was on leave on 07.03.2016 and 08.03.2016. During the morning hour on Wednesday i.e 09.03.2016 when physical cash verification was conducted cash shortage of Rs. 98,500/- was found detected. It is further asserted that in the present case that admitted lapses on the part of the workman in parting with physical cash there by causing cash shortage in the cash drawer without corresponding entry in the CBS i.e a valid mandate for parting with the physical cash, i.e serious lapse on the part of the workman. It is further asserted that the workman has been afforded fair opportunity to defend his case. The offence committed by the workman is of such nature thatdeserves a punishment of dismissal from service but the disciplinary authority has taken the lenient view of imposing penalty of removal from the service with

superannuation benefits. It is further asserted that workman being an employee of the bank was required to exercise standard of honesty and integrity. The workman of the bank deals with public money of customers of depositors. Even employee of the bank is required to take all possible steps to protect the interest of the bank and discharged his duties utmost with integrity, honesty, devotion and diligence and to do nothing which is going to effect the trust imposed by its customer. Good conduct and discipline are inseparable from the functioning of every bank employee. It is further asserted that the workman was put under suspension on the very day of detection of cash shortage i.e 09.03.2016; thereafter workman filed an appeal against suspension on 19.04.2016 but the Appellate Authority rejected the appeal against suspension vide order dated- 07.05.2016; an explanation was served on the workman on 24.06.2016 for asking his reply 01.07.2016 and thereafter charge sheet was served on 04.08.2016. It is further asserted that written statement of the defence was submitted by the workman on 08.08.2016 and thereafter enquiry proceeding started on 24.08.2016 and concluded on 21.10.2016. It is further asserted that enquiry report was supplied to the workman on 10.11.2016 against which workman submitted his explanation to the finding of the enquiry officer on 21.11.2016. It is further asserted that show cause notice was issued on 25.11.2016 by the disciplinary authority. Workman submitted reply to the show cause thereafter personal hearing was accorded on 15.12.2016 and finally disciplinary authority after considering the materials and documents on record, passed order “ Removal from service with superannuation benefits & without disqualification from future employment in terms of employment in terms of clause 6 (b) of the memorandum of settlement dt- 10.04.2002 with the period of suspension to be treated as such not on duty vide speaking order dt- 20.12.2016. It is further asserted that the workman while posted as Special Assistant at Frazer Road Branch of the management bank, was involved in causing physical cash shortage of Rs. 98,500/- that was confirmed by cash verification in for which workman was put under suspension and on findings not satisfactory reply from the workman side charge sheet has been given to him on 04.08.2016 for disciplinary enquiry. It is further asserted that the workman in his report to his Branch Manager dt- 09.03.2016, had admitted his guilt and promised to make good shortfall of the cash and also admitted he will not repeated such a mistake in future. The physical shortfall deposited on the day itself by the workman. It is further asserted that enquiry officer conducted the enquiry given due notice to the charge sheeted employee the workman who participated in the enquiry. The enquiry officer recorded the statement from both sides and enquiry officer after going through the enquiry found both the charges proved against the workman and he submitted enquiry report to the disciplinary authority and the same be given to the workman (CSE) by the disciplinary authority on 10.11.2016. Charge sheeted employee (workman) submitted his reply on 21.11.2016 but the disciplinary authority issued a show cause notice to the workman proposing the penalty of removal of service not to be inflicted and directed the workman for personal hearing on 15.12.2016 on that very day workman (CSE) submitted his written statement to the show cause but the disciplinary authority found no valid reason in the written submission of the workman and imposed the penalty removal from the service with superannuation benefits as per clause 6(b) of memorandum of settlement of dt-10.04.2002 vide speaking order dt- 20.12.2016. It is further asserted that the workman preferred an appeal against the order of the disciplinary authority but the Appellate Authority after considering the appeal was of the view that there was an ample proof that workman was involved in causing of physical cash shortage amounting to Rs. 98,500/- on 09.03.2016 which was detected during the cash verification and after considering the report of disciplinary authority and enquiry officer the appeal of the workman was dismissed by Appellate Authority vide order dt- 19.06.2017. It is further asserted that during the process of cash verification CSE never produced the cheque no.- 909066 on the pretext of which the shortfall amount as alleged by the workman to have been parted by him and his being averred by the workman in his claim petition. It is further asserted that no bank employee could be parted by a cash teller simply have a cheque with him, without posting the transaction in the CBS & without due authorization by passing officer. It is further asserted that after considering the matter in the totality, giving cognizance to the facts and record, the submission made by the workman during his personal hearing on 15.12.2016 and the gravity of lapses and gross misconduct proved against him, the order imposing penalty has been passed. It is further asserted that once an employee of the bank has lost the confidence of employee, it would not be safe and in the interest of the bank to have continued with the workman to be an employment. The punishment imposed in the facts and circumstances of the case, is not disproportionate and that the punishment of removal from the service is just and reasonable. It is further asserted that the loss of confidence of the employer occupies the primary factor in such cases and not the subsequent restoration of the misappropriated amount by the delinquent workman. In the instant case, the workman has been found guilty of misappropriating the Bank's funds and also admitted his guilt. It is further asserted that Disciplinary Authority and Appellate Authority have passed reasoned order after taking into account the charges made, enquiry report, but workman submission in personal hearing and other connected papers in accordance with the Bi-partite Settlement. There can't be a cash shortage & parting with cash without corresponding entry / posting in the CBS and is a serious lapse on the part of the workman. It is further asserted that Disciplinary Authority has taken a lenient view and has imposed penalty of “Removal” from service with superannuation benefits. Thus the workman deserves no leniency and sympathy and so he is not entitled for any relief.

4. Having going through the written submissions of both the parties, the following issues are recasted for the adjudication;

- (i) “Whether the management bank conducted the domestic enquiry against the charge sheeted employee, the workman on the basis of charges fairly and properly following the principles of natural justice.”

- (ii) “Whether the action of the management of State Bank of India, Bihar in imposing punishment of Removal of services of Shri Manoj Kumar, Special Assistant, in the light of clause 6(b) & (j) of Bi-partite Settlement dt- 10.04.2022 is just and proper ? If not, to what relief the workman is entitled to?”

5. It is argued by the representative of the workman the learned enquiry officer conducted and concluded the domestic enquiry without examining the complainant the Branch Manager. As such full facts did not come to the enquiry officer. It is further argued that as per the provision of section-11A of the I.D.Act, the tribunal is vested with the power for deciding the quantum of punishment. It is further argued that the events about shortage cash at the counter of the workman were twisted in a hyperbolic manner and the report were sent by the Branch Manger to the higher authority of the bank. No shortage of cash was found at the start of the business i.e at 10.00A.M and even the closing of business time. It is further argued that bank did not suffer any loss neither by way of cash loss or credit loss and the so punishment is shocking by disproportionate as it is highly punitive in nature and excessive in character. It is further argued that misconduct of the workman is that he made payment of a discrepant cheque to accommodate a respected current account holder of the bank by way of extending extra customer service and the he discharged his duties in good faith keeping above all, the interest of the bank. Accordingly workman deserves to be reinstated in the service of the bank with all consequential benefits after setting aside the impugned order of dt-21.12.2016 passed by the disciplinary authority which was confirmed by the Appellate Authority. It is also prayed that taking into consideration the misconduct of the workman did not hamper the reputation of the bank So a lenient view may be taken regarding the punishment to meet the ends of justice and equity.

6. On the other hand it is argued from the management bank that this tribunal has already decided the issue of fairness and propriety of domestic enquiry in favour of the management bank vide order dt- 10.02.2023. Now this tribunal has to decide whether the quantum of punishment has awarded by the management bank to the workman was just and proper. It is further argued that petitioner being an employee of the bank was required to exercise high standard of honesty and integrity. Every employee of the bank is required to take all possible steps to protect the interest of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence is duties as per banking norms rather without make entry of in CBS of the any cheque details he parted Rs. 98,500/- to a representative of the customer i.e well proved during the course of domestic enquiry. This misconduct is clear cut violation of clause 6(b) of the Bi-partite Settlement of dt- 10.04.2002 and it is further argued that the workman was not the employee with due diligence and with the trust imposed by the bank in its employee. It is further argued that due to earlier misconduct of this workman once the bank has imposed penalty of stoppage of one increment for one year vide letter no.- Z0/DGM/DPS/31/11/05/2002 and on second time the management bank imposed penalty against the workman bringing down his scale to lower stage in the scale of pay by two stages for a two years vide letter no.- RM/I/P/HR/SKS/41 dt- 13.05.2014 i.e mentioned in his service sheet. Even then workman did not follow the norms of the banking rules and again committed misconduct of parting Rs.98,500/- without making any entry in the CBS that put question mark about his integrity and about his working conduct. The misconduct of the workman was thoroughly examined in domestic enquiry after providing charge sheet and his misconduct was proved in domestic enquiry and subsequently workman filed his reply to the findings of the enquiry officer then the authority proposed the punishment “ Removal from service” with superannuation benefits that was upheld by the disciplinary authority and further by the Appellate Authority after personal hearing of the workman. Quantum of punishment is well within the purview of Bi-partite Settlement as per clause 6 (j) of the Bi-partite Settlement of dt- 10.04.2002. The disciplinary authority has already taken lenient view to the misconduct of the workman and passed the order removal from the service with superannuation benefits so the quantum of punishment as imposed by the management bank is just and proper that requires no inference. It is argued that it is well held in the Union of India Vs. Parma Nanda (1989) 2 SCC 177 if there has been a enquiry consistent with the rules and in accordance with principle of natural justice what punishment would meet the ends of justice is a matter exclusively with the jurisdiction of the competent authority,if the penalty can lawfully be imposed and is imposed on the proved misconduct, the tribunal has no power to substitute it by own discretion for that of the authority. So here in the instant case repeated misconduct by the workman on three occasions does not allow him for any curtailment in the quantum of punishment as imposed by the bank against him. The representative of the management also relied to the findings of the Hon’ble Apex Court held in Regional Manager Vs. Nikunja Bihari Patnaik (1996 (9) SCC 69). It is no defence available to say that there was no loss or profit resulted in the case, when the officer / employee acted without authority. Acting beyond one’s authority is by itself a breach of discipline and is a misconduct. Here in the instant case workman can’t take this plea the shortage of money is deposited later on hence no loss occurred to the bank. The representative of the management further relied another ruling of the Hon’ble Apex Court held in Lalit Popli Vs Canara Bank (2003) 3 SCC 583. “The employee accepted that there was some lapse on his part but he pleaded lack of criminal intent. A bank employee deals with public money. The nature of his work demands vigilance with the inbuilt requirement to act carefully. Any carelessness invites action” and this ruling is well suited in the instant case. The representative of the management bank also relied on another ruling of the Hon’ble Apex Court State Bank of India & Ors Vs. Ramesh Dinkar Punde on 11 August, 2006, (2006) 7 SCC 212 when the bank employee / officer commits misconduct as in the present case for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently.” Thus the management bank by imposing punishment of removal from the service with superannuation benefits to the workman is just and proper and so no interference is required.

7. Considering all the facts and material available on the record as placed by both the sides and further considering the submissions as advanced on behalf of both the sides, this tribunal takes the first issue of adjudication. This tribunal finds that after perusing the statement of workman and thereafter the written statement filed by the management side this tribunal took the preliminary issue regarding domestic enquiry, whether it is conducted by the management official (Enquiry Officer) fairly and properly. This tribunal finds that workman and management both placed oral and documentary evidence before this tribunal. After going through all the details as placed by the rival parties and taking into note the charges as levelled against the CSE (Workman) and the enquiry as conducted the enquiry officer in the presence of Presenting Officer and CSE and his defence representative. This tribunal finds and hold that the domestic enquiry as conduct by the enquiry officer was fair and proper following the principle of natural justice vide order dt- 10.02.2023 (the copy of the order on domestic enquiry dt-10.02.2023 with annexed with this award).

8. So far as second issue is concerned whether the Quantum of punishment imposed by the management bank against the workman about his removal from the service with all superannuation benefit is just and proper. In this context both the sides put their submissions before this tribunal. The representative of the workman stressed on this facts there was no loss accrued to the bank because the shortage money amounting to Rs. 98,500/- was deposited on the same day, moreover, the branch manager manipulated all the episode of incident by wrongly informing to the higher authority for the cash verification. The learned representative also stressed the quantum of punishment removal from the service is far excessive than the act done by the workman by giving the amount against the discrepant cheque was in just to help the customer maintaining heavy fund in his bank account. It was bonafide mistake that is committed by the workman on that very day. So the punishment imposed by the management bank is not proper and just. This tribunal further finds that workman Manoj Kumar was Special Assistant in the Frazer Road Branch, Patna of the management bank. This tribunal further finds that workman was appointed on compassionate ground in the year 1994 as per record. This tribunal further finds that in banking system every bank employee is supposed to discharge his duties with utmost honesty and integrity because a trust his reposed upon employee by the bank for the customer and its business. This tribunal further finds that memorandum of settlement on the disciplinary action for the workman dt-10.04.2002 was drafted with concurrence of bank employees union and the management bank clause-5 (j) of memorandum of settlement dt- 10.04.2002 says that doing any act prejudice to the interest of the bank and of gross negligence or negligence involving or likely to involve bank in serious loss. This tribunal finds that if any bank employee is suspended under this clause and enquiry used to be conducted on the basis of charge sheet. Here in the instant case workman did not discharged his duties as per banking norms. On that very day by parting Rs. 98,500/- and the same is given to the representative of customer Kamlesh against the discrepant cheque without noticing to the branch manager and subsequently on the cash verification by the bank officials of management bank Rs. 98,500/- found short that was also admitted by the workman in written and also under take he will not repeat it in future. It also appears that the workman projected a story the representative of the customer was standing out side counter who sent the other person with the money to the customer Kamlesh, and he told he will immediately bring the proper cheque but on analysing the whole episode of the evidence as brought by the rival parties, this tribunal finds the discrepant cheque as alleged by the workman was never produced before any authority of the management bank. This act of the workman by giving Rs. 98,500/- to the representative of the customer Kamlesh is highly negligent act that is beyond the norms of the banking rules that is against interest of the bank it was never a bonafide act of the workman rather he wanted to please the customer at his own end. This tribunal further finds that the shortage of fund was also deposited by the workman after giving confessional statement of his fault before bank officers. This is dully proved and established by the management side before this tribunal. This tribunal further finds that earlier too the workman was not discharging his duties as per banking norms for which he was punished on two occasions by the management bank. First time he got punishment of penalty of stoppage of one increment for one year vide letter no.- ZO/DGM/DPS/31/05/2002 for his dereliction of duty as per banking norms and on 2nd time bank management imposed a penalty of bringing down to lower stage in the scale of pay by two stages for a period of two years vide letter no.- RM/I/P/HR/SKS/41 dated- 13.05.2014 that is mentioning in his service sheet. This tribunal finds and hold that workman was very casual in working earlier too, for which he was punished twice even then he did not learn the lesson of his mistakes earlier done by him for which he had received penalty twice. This tribunal finds that second punishment was given on 13.05.2014 that is effected for two years but in the instant case workman again did mistake on 09.03.2016 by giving Rs. 98,500/- ash to a representative of a customer without making any entry in the CBS system that is pre-requisite of parting cash from the cash box to any customer. It all appears that workman was never vigilant employee of the management bank. However, bank has reposed trust upon him even he violated the banking norms twice one in year 2002 and second time in the year 2014. So the contention of the workman it was bonafide fault and the bank officials manipulated the incident and get him punished is not accepted at all. This tribunal finds and hold that after due enquiry of the charges as levelled against the workman, his charges was found proved by the enquiry officer and during the enquiry, workman was given full opportunity to defend him but could not succeed on the basis of the documentary evidence available before the enquiry officer. This tribunal further finds that the workman was punished by the management bank under clause 6(b) of the memorandum of settlement dt- 10.04.2002 by removal from the service with superannuation benefits and then disqualification from future employment. This tribunal further finds that the representative of the workman stressed as per section- 11A of the I.D.Act power is vested to this tribunal, can set aside the order of discharge or dismissal and make direct not reinstatement of the

workman on such terms of condition, and also can pass lesser punishment in lieu of discharge or dismissal as per the circumstances of the case may require. This tribunal finds that there is a proviso of section-11A is “**in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.**” Here in the instant case this tribunal finds and hold that the workman was not discharging his duties with due diligence as per banking norms and committed fault thrice however, workman ought not to repeat the mistake / fault committed on 09.03.2016 for which he was suspended because workman was already got punishment twice for his violation of banking norms in his duties. This tribunal further finds and hold that the quantum of punishment as imposed by the management bank to the workman is proper and just to the charges proved against him. This tribunal further finds and hold that management bank has already taken lenient view by giving workman superannuation benefits and without disqualification from future employment requires no intervention in the quantum of punishment. This is all well established by the management bank by the rulings of Apex Court discussed above.

9. On the ultimate analysis of all facts and material available on record as discussed above this is the considered opinion of this tribunal the quantum of punishment as imposed by the management of SBI, Patna against the workman “Removal of his service” with superannuation benefits is just and proper. So workman is not entitled for any relief on the quantum of punishment as imposed by the management bank. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Sd/- 10.05.2024

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 25 जून, 2024

का.आ. 1280.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्य इंजीनियरिंग सेवाएँ के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **चंडीगढ़-II** के पंचाट (24/2016) प्रकाशित करती है।

[सं. एल -12025/01/2024- आई.आर.(बी-I)-172]

सलोनी, उप निदेशक

New Delhi, the 25th June, 2024

S.O. 1280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.24/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Military Engineering Services and their workmen.

[No. L-12025/01/2024- IR(B-I)-172]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.24/2016

Registered on:-16.06.2016

Sh. Mohd. Yamin Geja S/o Sh. Sarwar Khan, R/o H.No.543, Village Rampursuri, Mahadev Colony, BCW Surajpur, Tehsil Kalka, District Panchkula(HR).

.....Workman

Versus

Garrison Engineer(Utility), Military Engineering Services, Chandimandir, District Panchkula(HR).

Respondent/Management

AWARD

Passed on:-06.03.2024

1. The workman Mohd. Yamin @Geja has filed the present claim petition under Section 2-A of the Industrial Disputes Act, 1947(hereinafter called as 'Act') with the averment that he was interviewed and selected and recommended to be appointed as Mazdoor by a Selection Committee constituted by G.E. and was appointed as such in May 2000. After due Police Verification, he was allowed to join on 1.5.2000. His working hours were from 8 am to 5 pm daily with a break of one hour for lunch. It was usual practice in G.E.(U), Chandimandir that initially civilian employees are appointed on temporary basis, paid less than the prescribed rates, performance used to be observed and only then regularized on the job after having observed the performance of duties, work, conduct etc. for about one year. He was also assured at the time of his initial appointment/joining that he would be regularized as and when vacancies are sanctioned and notified in future on a regular scale of pay. He was being paid only Rs.50/- per day which was much less as prescribed under the Minimum Wages Act by the Government and whenever he made a demand for minimum wages/more pay he was threatened with termination of his employment and even threatened that he would not be regularized. His pay was increased from Rs.1500/- in 2000 to Rs.6000/- per month in 2015. He was discharging his duties sincerely and honestly. The management did not take any steps to regularize his service despite of the fact that the regular posts of Mazdoor, later on of Mates as well as Plumbers were existing and were vacant. The respondent/ management used the policy of hire and fire and as on date there are 90-95 Mates but still some vacancies are lying vacant. He made representations to the G.E.(U), Chandimandir through J.E. and A.G.E. concerned many times to enhance the wages and regularize his services as per the promise given at the time of his joining but every time rather than taking any action on the requests made he met with threat of termination of service. All his requests fell on the deaf ears. His services were terminated on 7.8.2015 without any notice of termination and without any compensation in lieu thereof. On 7.8.2015 he received one sentence verbal order that his services are terminated and he need not to come on duty w.e.f. 8.8.2015 by Sh. V.K. Sharma, A.G.E. a subordinate of G.E.(U), Chandimandir. He was also not given the salary for the month of August 2015. The respondent-management falls under the definition of Industry and he is the workman under the definition of Industrial Disputes Act. There was no compliance of Section 25-F of the Industrial Disputes Act neither any notice or any pay/wages in lieu thereof was given nor any retrenchment compensation was paid. The juniors were retained in service and he was terminated from service which is violation of Section 25-G of the ID Act. He demand Rs.3,00,155/- towards back wages along with interest @12% and reinstatement in service.

2. Respondent/management has filed its written statement, alleging therein that there are two types of employees i.e. Combatants and Civilians and not Civilian(Contractual). Daily wagers are employed through contractors and they are not the employees of the management. It is denied that workman was interviewed and selected and appointed as Mazdoor by Selection Committee. The workman was never employed by the management so the question of termination of services without any notice and any compensation does not arise. The management does not fall under the definition of Industry as the office of the management is under the control and administration of Ministry of Defence and the same being under the Central Government of India, the question of falling the management under the definition of Industry does not arise. The management has not violated the provisions of Section 25-F of the ID Act. Since the workman was never worked with the management, the question of payment of money in lieu of three months notice does not arise. Therefore, the present claim statement is liable to be dismissed being devoid of merits in the interest of justice.

3. The workman filed replication, reiterating the same facts as alleged in the claim statement hence need not to be repeated again.

4. It is pertinent to mention here that the management was proceeded ex parte on 16.11.2016 and the management has filed an application for setting aside the ex parte order dated 16.11.2016 to which reply was filed by the workman and the ex parte order dated 16.11.2016 passed against the management was set aside by my Ld. Predecessor on the payment of cost of Rs.300/- on 31.05.2017.

5. Parties were given opportunity to lead evidence.

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A along with documents i.e. Temporary Pass and work order slip(colly) and has been cross-examined by the learned counsel of management. The workman has also examined WW2 Sh. Anil Kumar, who filed his affidavit in evidence as Ex.WW2/A, WW3 Raman Kumar who filed his affidavit in evidence as Ex.WW3/A, WW4 Gulshan Ali who filed his affidavit in evidence as Ex.WW4/A and WW5 Mohd. Aslam who filed his affidavit in evidence as Ex.WW5/A and were cross-examined by the learned counsel of management.

7. The management has examined MW1 Sh. Ashish Yadav, working as AGE E/M-II in the office of Garrison Engineer(Utility) Chandimandir, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman.

8. The workman filed written arguments, alleging therein that there are three types of employees i.e. Combatants, Civilian(Regular) and Civilian(Contractual) apart from daily wagers employed through

contractors. There were about 250-260 civilian employees(regular as well as contractual) working under GE(U) Chandimandir. He was interviewed, selected and recommended to be appointed as Mazdoor by a Selection Committee constituted by G.E. and was appointed as such in 2000 after due police verification and was allowed to join on 1.5.2000 from 8 am to 17 pm daily with a break of one hour for lunch. The workman was employed as Plumber w.e.f. 1.1.2009. The workman was assured at the time of initial appointment/joining that he would be regularized as and when vacancies are sanctioned and notified in future on a regular scales of pay. The workman discharging his duties sincerely and honestly and his superiors never had any occasion to point out or having been found wanting. He had to work under strict military discipline in that when he used to enter/exit in/out of the Cantonment his Pass/I-card used to be checked and J.E. used to take daily attendance with time and date. Earlier Pass/I-Card used to made and issued by AGE and later on it was used to be issued by Station Headquarters, Chandimandir. Management was taking work for nine hours a day(including one hour break) from workman but was neither paying the minimum wages prescribed and notified from time to time by the Govt. nor any weekly holidays, any type of casual leave or earned leave was being given. The workman filed his affidavit in evidence and similarly four more witnesses were examined and cross-examined. All the witnesses have supported the version that there were three types of employees viz. Combatants, Civilian(Regular) and Civilian(Contractual) apart from daily wagers employed through Contractors and there were about 250-260 civilian employees working under GE(U) Chandimandir. Lone witness of the management is Assistant Garrison Engineer(AGE) who though posted on the incumbent post only December 2017 i.e. much after the period of workman's employment with management from 1.5.2000 to 7.8.2015 but claims to be in full knowledge of the case and hence competent to deposit. He denied of having any contractual employee like workman because management gives all maintenance works to Contractor and do not deal directly with contractual employees. The names of the contractors who were awarded such contract from 2002 to 2015 not given by the management and their date of contract/agreement, tenure of agreement, terms and conditions of agreement liability default or otherwise are not given. Assuming for the sake of argument that workman was employee of contractor as to how come same contractor continued from more than thirteen years from 7.5.2002 to 8.8.2015. It is a settled principle of law that if the facts are not specifically pleaded nor denied in pleadings are deem to be admitted facts and there is no question of its proof by oral or documentary evidence nor any such documentary of otherwise evidence is placed on record. The workman has placed on record complaint slips which are more than 130 in number for the period from 2007 to 2011, which belongs to management having Docket Machine Numbers duly signed by the incumbent Junior Engineers(E/M) at the relevant time. By these signed slips, works/daily duties used to be assigned to the workman giving details of the nature of complaint, building number and location, individual tradesman detailed for the job and were required to be deposited back in the Service Centre on completion of job. These complaint slips conclusively prove that the workman was the employee of the management and the works/duties used to be allotted was supervised and monitored by JR(E/M) of the management. The workman has placed reliance to the judgment titled as *Ram Singh and others Vs. Union Territory Chandigarh and others, Civil Appeal No.3166/2002*, which deals with the relationship between employer and employee/master and servant and forum for deciding nature of employment of workman with establishment and contractors.

9. The management filed written arguments, alleging therein that there are two types of employees i.e. Combatants and Civilians and not Civilian(Contractual). The daily wagers are employed through contractors and thus, they are not the employees of the management. The workman was never appointed by the management and thus, no payment has ever been made to the defence accounts and the workman should be asked to prove the same with cogent evidence. The workman requested for experience certificate with a request that he can work with any other contract/contractor and accordingly the experience certificate was issued with specific work that on contractual basis that means they are working under contractors and they were paid by the different contractors. The MES was issuing temporary entry passes for workers of contractors as well as to the dependents of MES employees. Dut to security, this practice was stopped by Station HW and direction was issued that security passes shall be issued by Station HQ and police verification was also the requirement of Station HQ. CMP persons started checking all the persons including deployed by the contractors on installations. Therefore, to overcome the problem, all the persons were asked to give an application so that it can be forwarded to the respective police verification. The present claim petition filed by the workman is liable to be dismissed in the interest of justice.

10. I have heard learned counsels for the parties and have gone through the entire evidence placed on file by the parties as well as written arguments.

11. It is added here, it is the case of the workman that it was usual practice in respondent-management that initially civilian employees are employed on temporary basis and paid less than the prescribed rates and after observing the performance, the workman are regularized on job after one year. He workman was paid Rs.50/- per day. Thus, the workman claims himself to be appointed on temporary daily wages. The first question is required to be determined is whether the claimant is a workman even if he was appointed on temporary daily wages and was drawing Rs.50/- per day. To my mind, the claimant is a workman within the definition of Section 2(S). In this regard, reference can be made to the decision in the case of *Devinder Singh*

Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532. wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as under :-

"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act. Thus, nature of appointment or source of appointment is not relevant to be a "workman" within the Industrial Disputes Act, 1947.

12. The real controversy lies between the parties with respect to the relationship of workman with management. The issue as to whether the workman was engaged by the employer/management directly or through contractors is the bone of contention between the parties. There is no dispute about proposition of law that onus to prove that claimant was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of their appointment or engagement for that period to show that he had worked with the respondent-management for 240 days or more in a calendar year. In this regard, reference may be made to judgment of Hon'ble Supreme Court in case of *Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.*

13. Question remains to be seen whether claimant/workman Mohd. Yamin @Geja has proved that he was directly engaged by the management on 1.5.2000 and served till his termination on 7.8.2015. This fact has to be proved by the documentary evidence as well as oral evidence. At the very outset, it may be mentioned that there is no single reliable document to prove that workman/claimant was directly employed by the management. In this connection, workman Mohd. Yamin @Geja has accepted that neither any appointment letter nor any termination letter was issued by the respondent-management. Undoubtedly, witness examined by the respondent-management namely Ashish Yadav, AGE E/M-II, Garrison Engineer(Utility) Chandimandir has categorically stated in his evidence that the claimant/workman was not employed by the management as such, neither notice nor retrenchment compensation was given by management.

14. The Hon'ble Supreme Court after analysing the catena of cases has laid down in *Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,* two well recognised tests to find out whether the labours are the contract employees of the principal employer as follows:-

- 1) Whether the principal employer pays the salary instead of contractor and
- 2) Whether the principal employer controls and supervise the work of the employees?

The facts regarding the payment of salary by the management or contractor has not been specifically stated in the claim petition of the workman. In fact, claim petition is totally silent regarding the payment of wages, salary, letter of appointment or anything likewise. Similarly, workman has not mentioned anything regarding the mode of payment of wages, salaries etc. in his affidavit. Thus, this basic features for holding the relationship of employer and employee is totally lacking not in the pleading but also in the evidence submitted by the workman.

15. WW1 Mohd. Yamin @Geja has stated in his cross-examination that he was paid salary by the JE of the Department in cash and signatures were obtained in a register. Salary slip was not issued to the workman. It appears that workman has taken the above plea just to cover up his case that he was employed by the respondent-management. Actually the workman was not employed by the respondent-management as it is his case that he was interviewed, selected and recommended as Mazdoor by a Selection Committee constituted by G.E. and joined as such on 1.5.2000. His police verification was also done. The said statement of him also seemed to be afterthought because had he been interviewed, selected and recommended to be appointed as Mazdoor. He could have summoned the documents from the respondent-management by filing an application

but he has not summoned the documents which clearly shows that he was not getting any wages from the respondent-management nor he was appointed by the respondent-management.

16. Secondly, so far as the question of controls and supervision is concerned. Workman has categorically stated that his work was controlled and supervised by the officials of the management. To this effect, he has placed on record the temporary entry pass and complaint slips. Except this, nothing is brought on record to prove that it is management who were supervising and controlling the work of claimant/workman. The apex court while explaining the factor of supervision and control in the case of ***International Airport Authority of India vs. International Air Cargo Workers Union [209 (13) SCC374]*** has held as follows:-

“If the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor.

The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides whether the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.”

17. Thus, the principal enunciated by the Hon'ble Supreme Court clearly establishes that mere supervision of work is not sufficient to prove the relationship of employer and employee till it is proved that there was a complete control and supervision. The management control includes the authority of dismissal, taking of disciplinary action and continuity of service etc. Claim petition filed by the claimant/workman is mum on this score and workman has not mentioned any specific averment in his affidavit regarding the appointment, authority of dismissal or taking of disciplinary action by the management. There is nothing on record to prove that it is the management who grant the leave or has authority to take any disciplinary action. In my considered opinion, mere saying of supervision regarding the execution of the work as alleged by the witness may not be called effective and absolute control. Such control is being emphasized to control the work of the management for a specific work in efficient manner done by the management in the establishment. So far as the photocopies of complaint slips and entry pass placed on record by the workman are concerned, they have also not been proved by calling the concerned official from the respondent-management. Moreover, from these slips and entry pass, it cannot be said that workman was working under the control and supervision of the respondent-management. So far as case law of ***Ram Singh and other(supra)*** referred by the learned AR for the workman is concerned, it stated that control by employers is only one factor to determine relation between employers and employees along with many other interrelated factors.

18. Undoubtedly, in Tribunal cases, has to be decided on the basis of the preponderance of probability and not the proof beyond reasonable doubt. So far as this case is concerned, there is no documentary evidence on record to prove the factum of direct employment of workman with the management. In any way nothing is on record with respect of the payment of salary, attendance register or work done by the claimant/workman during the course of alleged employment with the management. There is nothing mentioned in the claim petition as well as affidavit of the workman that who was the person-concerned by which he was directly engaged in the respondent-management of Garrison Engineer, Chandimandir. I am of the considered opinion that mere saying that he was employed by the Selection Committee constituted by G.E. and was appointed as Mazdoor which is clearly not proved by the workman. Thus, it may be observed that there is nothing conclusive either oral or documentary to prove that it was principal-employer Garrison Engineer, Chandimandir who controls and supervise the work of the workman. Workman Mohd. Yamin @Geja has examined four witnesses WW2 Anil Kumar, WW3 Raman Kumar, WW4 Gulshan Ali and WW5 Mohd. Aslam, their testimonies are of similar nature as that of workman. They all had also stated that salary was paid to them also by the J.E. of the department in cash. They had also admitted that there was no advertisement at the time of their joining. They had not submitted any form or application for the job. There was no call letter for joining the service. They are also daily wager like the workman and as such, their statements are also of no use to prove the case of workman.

19. So far as the question pertaining to the non-compliance of the provisions of Section 25-F of the ID Act is concerned. It is not disputed that management has neither issued any show cause notice nor given any compensation in lieu of notice as is envisaged under Section 25-F of the ID Act. Learned counsel of the management contended that workman in fact was not the employee of the establishment as such, neither he is

terminated by the management nor such notice and compliance of Section 25-F of the Act is required by the establishment. In this connection, learned counsel of the management has placed reliance in the case of Municipal Corporation, Faridabad Vs. Siri Niwas, Appeal(Civil) No.1851 of 2002, decided on 06.09.2004, Rajasthan State Ganganagar S. Mills Ltd. Vs. State of Rajasthan & Anr. Civil Appeal No.5969 of 2004, decided on 13.09.2004 as well as State of Rajasthan, Manager RBI Bangalore Vs. S. Mani & Ors. Civil Appeal No.6306-6316 of 2003 decided on 14.03.2005. Learned counsel of the workman contended that workman is rendering his services with the management for so many years and he had completed 240 days in the year 7.8.2015 before termination by the management. As per pleading of the workman he was terminated from 7.8.2015 without compliance of Section 25-F of the ID Act. It is pertinent to mention that pleadings required specific averments with respect to the facts alleged in it. It is not specifically pleaded that workman was retrenched/terminated by the management in preceding year i.e. on 7.8.2015 even he had rendered 240 days of service in the management. Thus, there is no specific pleading with respect to the working of 240 days in preceding year of the alleged termination. In the affidavit even there is no mention that the workman has worked for 240 days in the preceding year i.e. on 7.8.2015. Thus, this is a general assertion for rendering services with the management rather specific averments with respect to the 240 days in the preceding year before the termination. Thus, claim petition as well as affidavit filed by the workman is not very specific with respect to 240 days working in the establishment. In the light of the specific denial by the management for rendering services with the management, burden lies on the workman to prove this fact. The workman has failed to prove it. Thus, there is no necessity of issuing any show cause notice to the workman.

20. The claimant/workman has also claimed in his claim petition as well as in his affidavit and even in his cross-examination that Junior Engineer had given oral assurance for regularization in the department. In this regard, it is pertinent to mention here that he cannot have been regularized in the department as in those cases where the case fall under the definition of industrial dispute as mentioned under Section 2(k) of the ID Act or under Section 2-A of the Act only then regularization can be made. Section 2(k) of the ID Act defines “industrial dispute”, which reads as under:

“2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

x x x x

(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;”

And ID Act was amended adding Section 2A making individual dispute of a workman as an industrial dispute, if the dispute is related to dismissal, discharge, retrenchment or termination of individual workmen. Thus, Section 2A carves an exception to the definition of individual dispute as given in Section 2(k) of the ID Act. Thus, in order to give jurisdiction to the appropriate government to refer the dispute to the Tribunal/Labour Court, it was essential for the workman to show that his individual dispute for regularization was sponsored or espoused by the union of the workmen. The five Bench of the Apex Court in the case of Workmen of Dharampal Premchand (Saughandhi) Vs. Dharampal Premchand (Saughandhi), Civil Appeal No.532/1963, decided on 16.03.1965, has also support the above view.

21. The Hon’ble Karnatana High Court in the case titled as Prakash and Ors. Vs. Superintending Engineer(Electrical), O and M Circle, Belgaum and Ors., Writ Petition Nos.41747-757/1999, decided on 31.03.2000, has taken a view that the individual workman cannot raise a dispute with regard to absorption and regularization.

22. The Delhi High Court in the case of Management of Hotel Samrat and Ors. Vs. Government of NCT and Ors., Writ Petition(C) No.6247 & 6682/2002, decided on 04.01.2007, 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 ID Act.

23. In view of the above discussion, this Tribunal is of the firm view that there is no merit in the case and the same is liable to be dismissed.

24. Let copy of the award be sent to the Central Government for publication as required under Section 17(1) of the Act.

KAMAL KANT, Presiding Officer

.नई दिल्ली, 25 जून, 2024

का.आ. 1281.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्य इंजीनियरिंग सेवाएँ के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़-II के पंचाट (21/2016) प्रकाशित करती है।

[सं. एल -12025/01/2024- आई.आर.(बी-1)-173]

सलोनी, उप निदेशक

New Delhi, the 25th June, 2024

S.O. 1281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.21/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-II* as shown in the Annexure, in the industrial dispute between the management of Military Engineering Services and their workmen.

[No. L-12025/01/2024- IR(B-I)-173]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.21/2016

Registered on:-16.06.2016

Sh. Raman Kumar S/o Sh. Tarsem Chand, R/o H.No.137, Ganesh Vihar, Village Dhakoli, Tehsil Derabassi, SAS Nagar Mohali(Pb).

.....Workman

Versus

Garrison Engineer(Utility), Military Engineering Services, Chandimandir, District Panchkula(HR).

Respondent/Management

AWARD

Passed on:-06.03.2024

1. The workman Raman Kumar has filed the present claim petition under Section 2-A of the Industrial Disputes Act, 1947(hereinafter called as 'Act') with the averment that he was interviewed and selected and recommended to be appointed as Pump Operator by a Selection Committee constituted by G.E. and was appointed as such in August 1999. After due Police Verification, he was allowed to join on 1.9.1999. His working hours were from 8 am to 5 pm daily with a break of one hour for lunch. It was usual practice in G.E.(U), Chandimandir that initially civilian employees are appointed on temporary basis, paid less than the prescribed rates, performance used to be observed and only then regularized on the job after having observed the performance of duties, work, conduct etc. for about one year. He was also assured at the time of his initial appointment/joining that he would be regularized as and when vacancies are sanctioned and notified in future on a regular scales of pay. He was being paid only Rs.50/- per day which was much less as prescribed under the Minimum Wages Act by the Government and whenever he made a demand for minimum wages/more pay he was threatened with termination of his employment and even threatened that he would not be regularized. His pay was increased from Rs.1500/- in 1999 to Rs.8000/- per month in 2015. He was discharging his duties sincerely and honestly. The management did not take any steps to regularize his service despite of the fact that the regular posts of Pump Operators were existing and were vacant. The respondent/ management used the policy of hire and fire and as on date there are 10-12 Pump Houses and there are about 30-36 Pump Operators but still some vacancies are lying vacant. He made representations to the G.E.(U), Chandimandir through J.E. and A.G.E. concerned many times to enhance the wages and regularize his services as per the promise given at the time of his joining but every time rather than taking any action on the requests made he met with threat of termination of service. All his requests fell on the deaf ears. His services were terminated on 7.8.2015 without any notice of termination and without any compensation in lieu thereof. On 7.8.2015 he received one sentence verbal order that his services are terminated and he need not to come on duty w.e.f. 8.8.2015 by Sh. V.K. Sharma, A.G.E. a subordinate of G.E.(U), Chandimandir. He was also not given the salary for the month of August 2015. The respondent-management falls under the definition of Industry and he is the workman under the definition of Industrial Disputes Act. There was no compliance of Section 25-F of the Industrial Disputes Act neither any notice or any pay/wages in lieu thereof was given nor any retrenchment compensation was paid. The juniors were retained in service and he was terminated from service which is violation of Section

25-G of the ID Act. He demand Rs.6,30,720/- towards back wages along with interest @12% and reinstatement in service.

2. Respondent/management has filed its written statement, alleging therein that there are two types of employees i.e. Combatants and Civilians and not Civilian(Contractual). Daily wagers are employed through contractors and they are not the employees of the management. It is denied that workman was interviewed and selected and appointed as Mazdoor by Selection Committee. The workman was never employed by the management so the question of termination of services without any notice and any compensation does not arise. The management does not fall under the definition of Industry as the office of the management is under the control and administration of Ministry of Defence and the same being under the Central Government of India, the question of falling the management under the definition of Industry does not arise. The management has not violated the provisions of Section 25-F of the ID Act. Since the workman was never worked with the management, the question of payment of money in lieu of three months notice does not arise. Therefore, the present claim statement is liable to be dismissed being devoid of merits in the interest of justice.

3. The workman filed replication to the written statement filed by the management, alleging therein that he was employed and worked as Pump Operator for the management from 1.9.1999 to 8.8.2015 and was paid Rs.50/- per day from the day of joining which was revised from time to time and was being paid Rs.8000/- when his services were terminated in the month of August, 2015. He was not paid for the period from 1.8.2015 to 8.8.2015. No money in lieu of three months notice was paid to him.

4. It is pertinent to mention here that the management was proceeded ex parte on 16.11.2016 and the management has filed an application for setting aside the ex parte order dated 16.11.2016 to which reply was filed by the workman and the ex parte order dated 16.11.2016 passed against the management was set aside by my Ld. Predecessor on the payment of cost of Rs.300/- on 31.05.2017.

5. Parties were given opportunity to lead evidence.

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the learned counsel of management. The workman has also examined WW2 Sh. Mohd. Yamin, who filed his affidavit in evidence as Ex.WW2/A, WW3 Anil Kumar who filed his affidavit in evidence as Ex.WW3/A, WW4 Gulshan Ali who filed his affidavit in evidence as Ex.WW4/A and WW5 Mohd. Aslam who filed his affidavit in evidence as Ex.WW5/A and were cross-examined by the learned counsel of management.

7. The management has examined MW1 Sh. Ashish Yadav, working as AGE E/M-II in the office of Garrison Engineer(Utility) Chandimandir, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman.

8. The workman filed written arguments, alleging therein that there are three types of employees i.e. Combatants, Civilian(Regular) and Civilian(Contractual) apart from daily wagers employed through contractors. There were about 250-260 civilian employees(regular as well as contractual) working under GE(U) Chandimandir. He was interviewed, selected and recommended to be appointed as Pump Operator by a Selection Committee constituted by G.E. and was appointed as such in August 1999 after due police verification and was allowed to join on 1.9.1999 from 8 am to 17 pm daily with a break of one hour for lunch. The workman was assured at the time of initial appointment/joining that he would be regularized as and when vacancies are sanctioned and notified in future on a regular scales of pay. The workman discharging his duties sincerely and honestly and his superiors never had any occasion to point out or having been found wanting. He had to work under strict military discipline in that when he used to enter/exit in/out of the Cantonment his Pass/I-card used to be checked and J.E. used to take daily attendance with time and date. Earlier Pass/I-Card used to made and issued by AGE and later on it was used to be issued by Station Headquarters, Chandimandir. Management was taking work for nine hours a day(including one hour break) from workman but was neither paying the minimum wages prescribed and notified from time to time by the Govt. nor any weekly holidays, any type of casual leave or earned leave was being given. The workman filed his affidavit in evidence and similarly four more witnesses were examined and cross-examined. All the witnesses have supported the version that there were three types of employees viz. Combatants, Civilian(Regular) and Civilian(Contractual) apart from daily wagers employed through Contractors and there were about 250-260 civilian employees working under GE(U) Chandimandir. Lone witness of the management is Assistant Garrison Engineer(AGE) who though posted on the incumbent post only December 2017 i.e. much after the period of workman's employment with management from 1.9.1999 to 7.8.2015 but claims to be in full knowledge of the case and hence competent to deposit. He denied of having any contractual employee like workman because management gives all maintenance works to Contractor and do not deal directly with contractual employees. The names of the contractors who were awarded such contract from 1999 to 2015 not given by the management and their date of contract/agreement, tenure of agreement, terms and conditions of agreement liability default or otherwise are not given. Assuming for the sake of argument that workman was employee of

contractor as to how come same contractor continued from 1.9.1999 to 8.8.2015. It is a settled principle of law that if the facts are not specifically pleaded nor denied in pleadings are deemed to be admitted facts and there is no question of its proof by oral or documentary evidence nor any such documentary or otherwise evidence is placed on record. The workman has placed on the record complaint slips which are more than 130 in number for the period from 2007 to 2011, which belongs to the respondent-management having Docket Machine Numbers duly signed by the incumbent Junior Engineers(E/M) at the relevant time. By these signed slips, works/daily duties used to be assigned to the workman giving the details of the nature of complaint, building number and location, individual tradesman detailed for the job and were required to be deposited back in the Service Centre on completion of job. These complaint slips conclusively prove that the workman was the employee of the management and the works/duties used to be allotted was supervised and monitored by JR(E/M) of the management. The workman has placed reliance to the judgment titled as *Ram Singh and others Vs. Union Territory Chandigarh and others, Civil Appeal No.3166/2002, decided on 07.11.2003*, which deals with the relationship between employer and employee/master and servant and forum for deciding nature of employment of workman with establishment and contractors.

9. The management filed written arguments, alleging therein that there are two types of employees i.e. Combatants and Civilians and not Civilian(Contractual). The daily wagers are employed through contractors and thus, they are not the employees of the management. The workman was never appointed by the management and thus, no payment has ever been made to the defence accounts and the workman should be asked to prove the same with cogent evidence. The workman requested for experience certificate with a request that he can work with any other contract/contractor and accordingly the experience certificate was issued with specific work that on contractual basis that means they are working under contractors and they were paid by the different contractors. The MES was issuing temporary entry passes for workers of contractors as well as to the dependents of MES employees. But to security, this practice was stopped by Station HW and direction was issued that security passes shall be issued by Station HQ and police verification was also the requirement of Station HQ. CMP persons started checking all the persons including deployed by the contractors on installations. Therefore, to overcome the problem, all the persons were asked to give an application so that it can be forwarded to the respective police verification. The present claim petition filed by the workman is liable to be dismissed in the interest of justice.

10. I have heard learned counsels for the parties and have gone through the entire evidence placed on file by the parties as well as written arguments.

11. It is added here, it is the case of the workman that it was usual practice in respondent-management that initially civilian employees are employed on temporary basis and paid less than the prescribed rates and after observing the performance, the workman are regularized on job after one year. He was paid Rs.50/- per day. Thus, the workman claims himself to be appointed on temporary daily wages. The first question is required to be determined is whether the claimant is a workman even if he was appointed on temporary daily wages and was drawing Rs.50/- per day. To my mind, the claimant is a workman within the definition of Section 2(S). In this regard, reference can be made to the decision in the case of *Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532*, wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as under :-

"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act. Thus, nature of appointment or source of appointment is not relevant to be a "workman" within the Industrial Disputes Act, 1947.

12. The real controversy lies between the parties with respect to the relationship of workman with management. The issue as to whether the workman was engaged by the employer/management directly or through contractors is the bone of contention between the parties. There is no dispute about proposition of law that onus to prove that claimant was in the employment of management is always on the workman/claimant

and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in form of receipt of salary or wages for 240 days or record of their appointment or engagement for that period to show that he had worked with the respondent-management for 240 days or more in a calendar year. In this regard, reference may be made to judgment of Hon'ble Supreme Court in case of **Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.**

13. Question remains to be seen whether claimant/workman Raman Kumar has proved that he was directly engaged by the management on 1.9.1999 and served till his termination on 7.8.2015. This fact has to be proved by the documentary evidence as well as oral evidence. At the very outset, it may be mentioned that there is no single reliable document to prove that workman/claimant was directly employed by the management. In this connection, workman Raman Kumar has accepted that neither any appointment letter nor any termination letter was issued by the respondent-management. Undoubtedly, witness examined by the respondent-management namely Ashish Yadav, AGE E/M-II, Garrison Engineer(Utility) Chandimandir has categorically stated in his evidence that the claimant/workman was not employed by the management as such, neither notice nor retrenchment compensation was given by management.

14. The Hon'ble Supreme Court after analysing the catena of cases has laid down in **Balwant Raj Saluja Vs. Air India Limited in Civil Appeal No.10266 dated 25.08.2014,** two well recognised tests to find out whether the labours are the contract employees of the principal employer as follows:-

- 1) Whether the principal employer pays the salary instead of contractor and
- 2) Whether the principal employer controls and supervise the work of the employees?

The facts regarding the payment of salary by the management or contractor has not been specifically stated in the claim petition of the workman. In fact, claim petition is totally silent regarding the payment of wages, salary, letter of appointment or anything likewise. Similarly, workman has not mentioned anything regarding the mode of payment of wages, salaries etc. in his affidavit. Thus, this basic features for holding the relationship of employer and employee is totally lacking not in the pleading but also in the evidence submitted by the workman.

15. WW1 Raman Kumar has stated in his cross-examination that he was paid salary by the JE of the Department in cash and signatures were obtained in a register. Salary slip was not issued to the workman. It appears that workman has taken the above plea just to cover up his case that he was employed by the respondent-management. Actually the workman was not employed by the respondent-management as it is his case that he was interviewed, selected and recommended as Pump Operator by a Selection Committee constituted by G.E. and joined as such on 1.9.1999. His police verification was also done. The said statement of him also seemed to be afterthought because had he been interviewed, selected and recommended to be appointed as Pump Operator. He could have summoned the documents from the respondent-management by filing an application but he has not summoned the documents which clearly shows that he was not getting any wages from the respondent-management nor he was appointed by the respondent-management.

16. Secondly, so far as the question of controls and supervision is concerned. Workman has categorically stated that his work was controlled and supervised by the officials of the management. To this effect, he has placed on record the temporary entry pass and complaint slips. Except this, nothing is brought on record to prove that it is management who were supervising and controlling the work of claimant/workman. The apex court while explaining the factor of supervision and control in the case of **International Airport Authority of India vs. International Air Cargo Workers Union [209 (13) SCC374]** has held as follows:-

“If the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor.

The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides whether the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.”

17. Thus, the principal enunciated by the Hon'ble Supreme Court clearly establishes that mere supervision of work is not sufficient to prove the relationship of employer and employee till it is proved that there was a complete control and supervision. The management control includes the authority of dismissal, taking of disciplinary action and continuity of service etc. Claim petition filed by the claimant/workman is mum on this score and workman has not mentioned any specific averment in his affidavit regarding the appointment, authority of dismissal or taking of disciplinary action by the management. There is nothing on record to prove that it is the management who grant the leave or has authority to take any disciplinary action. In my considered opinion, mere saying of supervision regarding the execution of the work as alleged by the witness may not be called effective and absolute control. Such control is being emphasized to control the work of the management for a specific work in efficient manner done by the management in the establishment. Therefore, it cannot be said that workman was working under the control and supervision of the respondent-management. So far as the case law of Ram Singh and other(supra) referred by the learned AR for the workman is concerned, it stated that control by employer is only one factor to determine relation between employers and employees along with many other interrelated factors.

18. Undoubtedly, in Tribunal cases, has to be decided on the basis of the preponderance of probability and not the proof beyond reasonable doubt. So far as this case is concerned, there is no documentary evidence on record to prove the factum of direct employment of workman with the management. In any way nothing is on record with respect of the payment of salary, attendance register or work done by the claimant/workman during the course of alleged employment with the management. There is nothing mentioned in the claim petition as well as affidavit of the workman that who was the person-concerned by which he was directly engaged in the respondent-management of Garrison Engineer, Chandimandir. I am of the considered opinion that mere saying that he was employed by the Selection Committee constituted by G.E. and was appointed as Pump Operator which is clearly not proved by the workman. Thus, it may be observed that there is nothing conclusive either oral or documentary to prove that it was principal-employer Garrison Engineer, Chandimandir who controls and supervise the work of the workman. Workman Raman Kumar has examined four witnesses WW2 Mohd. Yamin, WW3 Anil Kumar, WW4 Gulshan Ali and WW5 Mohd. Aslam, their testimonies are of similar nature as that of workman. They all had also stated that salary was paid to them also by the J.E. of the department in cash. They had also admitted that there was no advertisement at the time of their joining. They had not submitted any form or application for the job. There was no call letter for joining the service. They are also daily wager like the workman and as such, their statements are also of no use to prove the case of workman.

19. So far as the question pertaining to the non-compliance of the provisions of Section 25-F of the ID Act is concerned. It is not disputed that management has neither issued any show cause notice nor given any compensation in lieu of notice as is envisaged under Section 25-F of the ID Act. Learned counsel of the management contended that workman in fact was not the employee of the establishment as such, neither he is terminated by the management nor such notice and compliance of Section 25-F of the Act is required by the establishment. In this connection, learned counsel of the management has placed reliance in the case of Municipal Corporation, Faridabad Vs. Siri Niwas, Appeal(Civil) No.1851 of 2002, decided on 06.09.2004, Rajasthan State Ganganagar S. Mills Ltd. Vs. State of Rajasthan & Anr. Civil Appeal No.5969 od 2004, decided on 13.09.2004 as well as State of Rajasthan, Manager RBI Bangalore Vs. S. Mani & Ors. Civil Appeal No.6306-6316 of 2003 decided on 14.03.2005. Learned counsel of the workman contended that workman is rendering his services with the management for so many years and he had completed 240 days in the year 7.8.2015 before termination by the management. As per pleading of the workman he was terminated from 7.8.2015 without compliance of Section 25-F of the ID Act. It is pertinent to mention that pleadings required specific averments with respect to the facts alleged in it. It is not specifically pleaded that workman was retrenched/terminated by the management in preceding year i.e. on 7.8.2015 even he had rendered 240 days of service in the management. Thus, there is no specific pleading with respect to the working of 240 days in preceding year of the alleged termination. In the affidavit even there is no mention that the workman has worked for 240 days in the preceding year i.e. on 7.8.2015. Thus, this is a general assertion for rendering services with the management rather specific averments with respect to the 240 days in the preceding year before the termination. Thus, claim petition as well as affidavit filed by the workman is not very specific with respect to 240 days working in the establishment. In the light of the specific denial by the management for rendering services with the management, burden lies on the workman to prove this fact. The workman has failed to prove it. Thus, there is no necessity of issuing any show cause notice to the workman.

20. The claimant/workman has also claimed in his claim petition as well as in his affidavit and even in his cross-examination that Junior Engineer had given oral assurance for regularization in the department. In this regard, it is pertinent to mention here that he cannot have been regularized in the department as in those cases where the case fall under the definition of industrial dispute as mentioned under Section 2(k) of the ID Act or under Section 2-A of the Act only then regularization can be made. Section 2(k) of the ID Act defines "industrial dispute", which reads as under:

“2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

x x x x

(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;”

And ID Act was amended adding Section 2A making individual dispute of a workman as an industrial dispute, if the dispute is related to dismissal, discharge, retrenchment or termination of individual workmen. Thus, Section 2A carves an exception to the definition of individual dispute as given in Section 2(k) of the ID Act. Thus, in order to give jurisdiction to the appropriate government to refer the dispute to the Tribunal/Labour Court, it was essential for the workman to show that his individual dispute for regularization was sponsored or espoused by the union of the workmen. The five Bench of the Apex Court in the case of Workmen of Dharampal Premchand (Saughandhi) Vs. Dharampal Premchand (Saughandhi), Civil Appeal No.532/1963, decided on 16.03.1965, has also support the above view.

21. The Hon’ble Karnatana High Court in the case titled as Prakash and Ors. Vs. Superintending Engineer(Electrical), O and M Circle, Belgaum and Ors., Writ Petition Nos.41747-757/1999, decided on 31.03.2000, has taken a view that the individual workman cannot raise a dispute with regard to absorption and regularization.

22. The Delhi High Court in the case of Management of Hotel Samrat and Ors. Vs. Government of NCT and Ors., Writ Petition(C) No.6247 & 6682/2002, decided on 04.01.2007, 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 ID Act.

23. In view of the above discussion, this Tribunal is of the firm view that there is no merit in the case and the same is liable to be dismissed.

24. Let copy of the award be sent to the Central Government for publication as required under Section 17(1) of the Act.

KAMAL KANT, Presiding Officer

नई दिल्ली, 25 जून, 2024

का.आ. 1282.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आई सी आई सी आई बैंक लिमि. के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (16/2006) प्रकाशित करती है।

[सं. एल -12012/214/2005-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 25th June, 2024

S.O. 1282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.16/2006) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of ICICI Bank Ltd and their workmen.

[No. L-12012/214/2005- IR(B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.—16/2006

Reference No. L-12012/214/2005-IR (B-I)

Dated: 09.01.2006

श्री कैलाश गौड़ पुत्र श्री सत्यनारायण गौड़, द्वारा विधि सचिव, राजस्थान प्रदेश बैंक वर्कर्स आर्गेनाइजेशन, सी-13, ओझाजी का बाग, टोंक रोड़, जयपुर, (राज.)।

.....प्रार्थी

बनाम

1. मुख्य कार्यकारी अधिकारी] ICICI बैंक लिमि., ICICI बैंक टावर्स, बान्द्रा कुर्ला कम्प्लेक्स, मुम्बई, 400051
2. उप महाप्रबंधक (एच.एम.आर.जी.), ICICI बैंक लिमि., सेन्ट्रल आफिस, चौमू हाउस सर्किल, जयपुर।
3. शाखा प्रबंधक, ICICI बैंक लिमि., शाखा- देई, जिला- बून्दी (राज.)

.....अप्रार्थीगण / विपक्षी

उपस्थित:-

प्रार्थी की ओर से : कोई उपस्थित नहीं।

विपक्षी की ओर से : श्री आलोक फतहपुरिया, अभिभाषक।

: **अभिनिर्णय** :

दिनांक : 11. 03. 2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 09.01.2006 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :-

“Whether the workman Shri Kailash Chand Gaur S/o Shri Satyanarayan Gaur was in continuous service for more than 240 days of the Bank from 18.11.2001 to 15.02.2005? If yes, whether the action of terminating the service of the workman by the Managing Director, The bank of Rajasthan Ltd. Jaipur w.e.f. 16.02.2005 is legal and justified? If not, to what relief the workman is entitled to and from which date? ”

2. प्रार्थी द्वारा दिनांक 17.03.2006 को बैंक ऑफ राजस्थान के विरुद्ध दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया है कि उसकी नियुक्ति 18.11.2001 को विपक्षी के अधीन चतुर्थ श्रेणी कर्मचारी के रूप में हुई थी। प्रार्थी को दूसरे काल्पनिक व्यक्तियों के नाम से वेतन भुगतान किया गया। प्रार्थी को 16.02.2005 को विपक्षी ने काम पर लेने से मना कर दिया। इस प्रकार सेवामुक्त किये जाने की तिथि से एक वर्ष पूर्व की अवधि में प्रार्थी ने 240 दिन से अधिक कार्य किया था। सेवामुक्त के पूर्व प्रार्थी को न तो कोई नोटिस, न ही नोटिस वेतन व मुआवजे का भुगतान किया गया। प्रार्थी से कनिष्ठतर व्यक्तियों को काम पर रखा गया व नये श्रमिक भी भर्ती किये गये। इस प्रकार विपक्षी ने अधिनियम की धारा 25 F, G व H तथा नियम 77 व 78 का उल्लंघन किया है। अतः वाद स्वीकार कर प्रार्थी की सेवामुक्ति को अवैध घोषित करते हुए सेवा में निरंतरता व विगत वेतन परिलाभों सहित सेवा में बहाल किये जाने का आदेश पारित किया जावे।
3. विपक्षी ने दिनांक 05.04.2010 को वादोत्तर प्रस्तुत कर दावे के तथ्यों को अस्वीकार किया। उनका कथन है कि प्रार्थी व विपक्षी के बीच नियोक्ता व कर्मकार का संबंध नहीं है, इसलिये अधिनियम के प्रावधान लागू ही नहीं होते हैं। प्रार्थी को विपक्षी ने चतुर्थ श्रेणी कर्मचारी के पद पर कभी नियुक्त नहीं किया, न ही प्रार्थी ने 15.02.2005 तक कार्य किया। प्रार्थी को काल्पनिक व्यक्तियों के नाम से कभी भुगतान नहीं किया गया। विपक्षी बैंक की निर्धारित चयन एवं नियुक्ति की प्रक्रिया है। सभी पदों पर स्थाई कर्मचारी कार्य कर रहे हैं। विपक्षी ने अधिनियम के किसी भी प्रावधान का उल्लंघन नहीं किया। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है, अतः वाद निरस्त किया जावे।
4. दिनांक 26.07.2011 को अधिकरण द्वारा विपक्षी बैंक ऑफ राजस्थान का विलय ICICI बैंक में हो जाने के फलस्वरूप- ICICI बैंक को इस विवाद में आवश्यक पक्षकार के रूप में प्रत्यास्थापित करने का आदेश पारित किया गया।
5. दिनांक 23.01.2014 से यह प्रकरण विभिन्न तिथियों पर प्रार्थी की साक्ष्य हेतु नियत किया जाता रहा है। किंतु प्रार्थी ने साक्ष्य प्रस्तुत नहीं की, इसलिए दिनांक 07.12.2016 को प्रार्थी की साक्ष्य समाप्त कर दी गई।
6. दिनांक 28.02.2017 को प्रार्थी द्वारा साक्ष्य का अवसर पुनः दिये जाने हेतु प्रार्थना पत्र प्रस्तुत किया, इसका उत्तर विपक्षी ने दिनांक 30.01.2019 को प्रस्तुत किया। किंतु प्रार्थी ने दिनांक 03.09.2019 को इस प्रार्थना पत्र पर बहस हेतु

अंतिम अवसर दिये जाने पर भी दिनांक 24.12.2019 को अनुपस्थित रह कर बहस नहीं की, इसलिए यह प्रार्थना पत्र प्रार्थी की अकारण अनुपस्थिति में अस्वीकार कर दिया गया। विपक्षी ने भी अपनी साक्ष्य समाप्त की। दिनांक 16.07.2020 से दिनांक 27.12.2023 तक प्रकरण में बहस नहीं की गई। दिनांक 28.02.2024 को प्रार्थी पक्ष अकारण अनुपस्थित रहा, अतः विपक्षी अभिभाषक के तर्क सुने व पत्रावली का अवलोकन किया।

7. प्रार्थी ने अपने अभिवचनों के समर्थन में एक दशक की अवधि में कोई साक्ष्य प्रस्तुत नहीं की है— इसलिए यह स्पष्ट है कि प्रार्थी के अभिवचन साक्ष्य के अभाव में प्रमाणित नहीं हुये हैं— इसलिए प्रार्थी साक्ष्य के अभाव में विपक्षी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।
8. समुचित सरकार द्वारा संदर्भित विवाद का न्यायनिर्णयन इसी प्रकार किया जाता है।
9. अधिनियम की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 25 जून, 2024

का.आ. 1283.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफआईए टेक्नोलॉजी सर्विसेज प्रा. लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (39/2023) प्रकाशित करती है।

[सं. एल -12025/01/2024-आई.आर.(बी-1)174]

सलोनी, उप निदेशक

New Delhi, the 25th June, 2024

S.O. 1283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.39/2023) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Asansol* as shown in the Annexure, in the industrial dispute between the management of FIA Technology Services Pvt. Ltd and their workmen.

[No. L-12025/01/2024- IR(B-I)-174]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL.**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 39 OF 2023

PARTIES: Sk. Md. Maruf Haque
Vs.
Management of FIA Technology Services Pvt. Ltd.

REPRESENTATIVES:

For the Workman: Md. Maruf Haque (in person).
For the Management: Mr. P. K. Das, Advocate.

INDUSTRY: Banking.

STATE: West Bengal.

Dated: 01.04.2024

A W A R D

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 Ministry of Labour, Government of India through the Office of the Deputy Chief Labour Commissioner (Central), Asansol, vide its Order **No. 1(27)/2023/E** dated 26.07.2023 has been pleased to refer the following dispute between the employer, that is the Management of FIA Technology Services Private Limited and their employee for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of FIA Technology Services Pvt Ltd under State Bank of India in terminating the services of Sk Md Maruf Haque is justified? If not, what relief the workman is entitled to? ”

1. On receiving Order **No. 1(27)/2023/E** dated 26.07.2023 from the Office of the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute **Reference case No. 39 of 2023** was registered on 28.07.2023 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the management of FIA Technology Services Private Limited has appeared. State Bank of India wherein FIA Technology Services Private Limited serves as an agency providing service has not been impleaded as a party. Sk. Md. Maruf Haque, aggrieved employee who has been terminated from the service of FIA Technology Services Private Limited has appeared in person. The case is fixed up today for evidence of both parties. Since State Bank of India is not a party to this Industrial Dispute and no relief has been claimed by the aggrieved employee against State Bank of India, I am of the considered view that the Central Government is not the appropriate government under Section 2(a)(i) of the Industrial Disputes Act, 1947 and the appropriate government in this case is the State Government under Section 2(a)(i) of the Industrial Disputes Act, 1947.

3. None of the parties appearing before the Tribunal is found ready for adducing evidence. No affidavit-in-chief is filed. Sk. Md. Maruf Haque filed a petition stating that he was working under FIA Technology Services Private Limited and he wants to withdraw this case as it is not an Industrial Dispute. Copy served. No objection is raised. Prayer for withdrawal is allowed. Considering the prayer of the aggrieved workman, this Industrial Dispute is disposed of on withdrawn. Let a No Dispute Award be drawn up.

Hence,

O R D E R E D

that a No Dispute Award be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जून, 2024

का.आ. 1284.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स प्राइम सिक्योरिटी एंड इंटेलिजेंस सर्विसेज एवं अन्य के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (101/2015) प्रकाशित करती है।

[सं. एल -12011/72/2017- आई.आर.(बी-II)

सलोनी, उप निदेशक

New Delhi, the 26th June, 2024

S.O. 1284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.101/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of M/s. Prime Security & Intelligence Services & Ors and their workmen.

[No. L-12011/72/2017- IR(B-II)]

SALONI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Present : Justice K. D. Bhutia, Presiding Officer.****REF. NO. 101 OF 2015****Parties : Employers in relation to the management of
M/s. Prime Security & Intelligence Services & Ors.****AND****Their Workmen/ Union**

Appearance :

On behalf of Bank of Maharashtra: Absent.

On behalf of Prime Security & Intelligence Services: Absent

On behalf of Vaishali Security Investigation Pvt. Ltd: Absent.

On behalf of the Workmen/Union: Mr. Supdipta Saha Roy, A.R.

Dated: 17th May, 2024**A W A R D**

By order No. L-12011/72/2017-IR (B-II) dated 02-11-2015, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

- (i) “Whether the action of the management of M/s. Prime Security & Intelligence Services, contractor of Bank of Maharashtra by terminating the service of Sri Avijit Goswami, Sri Nirmal Roy and Sri Rakib Molla and by non-compliance of Section 25-F (a) & (b) of the Industrial Disputes Act, 1947 is legal and/or justified? If not, what relief the workmen are entitled to?”
- (ii) Whether the action of the management of M/s Vaishali Security Investigation (P) Ltd. contractor of Bank of Maharashtra by refusing re-deployment in their old work to Sri Avijit Goswami, Sri Nirmal Roy and Sri Rakib Molla without adhering section 25-(H) of I.D. Act, 1947 is legal /or justified?
- (iii) If not, what relief the workmen are entitled to?”

The facts giving rise to the present dispute in gist are that Bank of Maharashtra having its branches in different parts of the city of Kolkata and its suburb had sourced out the job of Armed Security Guards/ Gunmen. Accordingly, as per tender it had a contract with M/s. Prime Security & Intelligence Services for supply of security guards at its branches. M/s. Prime Security & Intelligence Services deployed its workmen namely Sri Avijit Goswami at Chowranghee Branch, Sri Nirmal Roy at Jadavpur Branch and Sri Rakib Molla at Baruiipur Branch as security guards.

It is the case of the union that for no reason and all on a sudden M/s. Prime Security & Intelligence Services, terminated Sri Avijit Goswami some time in the month of September, 2013 without complying the provisions of section 25-F of the Industrial Disputes Act. He brought his grievances before the principal employer/the Bank, but who refused to intervene in the matter. Then Sri Avijit Goswami raised an industrial dispute before the Assistant Labour Commissioner- Central, Kolkata. During the hearing on 11-03-2014 it is also noted that two more Armed Security Guards/ Gunmen named Sri Nirmal Roy and Sri Rakib Molla too were retrenched from their services by the same contractor employer without complying the provisions of Section 25-F.

That during the pendency of the conciliation proceeding those three retrenched Armed Security Guards/Gunmen offered themselves for re-employment before M/s. Vaishali Security Investigation (P) Ltd., a new contractor engaged by the Bank, but who refused to take their service as Armed Security Guard/Gunmen at Chowranghee Branch, Jadavpur Branch and Baruiipur Branch of Bank of Maharashtra in violation of provisions of section 25-H.

Therefore, union has alleged that retrenchment by M/s. Prime Security & Intelligence Services is void ab-initio. They are entitled to get a terminal benefit u/s 25-F of the I.D. Act with a direction to M/s. Vaishali Security Investigation (P) Ltd. to re-employ them as Armed Security Guards/Gunmen and with all back wages and consequential benefits.

Record shows that Bank and M/s. Prime Security & Intelligence Services have failed to put their appearance despite due service of notice upon them. That Vaishali Security Investigation (P) Ltd. had put its appearance through its authorised representative, but who too ultimately failed to contest the case by filing written statement. Thus, all the three alleged employers have been proceeded exparte.

The union in order to prove its case has examined the concerned workmen namely Sri Avijit Goswami and Sri Nirmal Roy as W.W. No. 1 and W.W. No.2. The Union has also examined its Joint Secretary Sri Biswajit Ghosh as W.W.No.3. The union have filed copy of its letter dt.29-08-2013 addressed to the Sr. Manager, Bank of Maharashtra, copy of letters dt.24-10-2013 and 08-05-2014 addressed to Assistant Labour Commissioner, Central, Kolkata, copy of order of reconciliation proceeding dt.07-04-2015 and 16-07-2014, copy of its letter dt.19-08-2014 to A.L.C and ALC's letter dt.17-08-2015 to the Ministry of Labour, which have been marked as Exb.W-1 series and Exb. W-2.

It is the case of the union that those three concerned workmen were engaged by M/s. Prime Security & Intelligence Services, a contractor of Bank of Maharashtra to work as Armed Security Guards/Gunmen at Chowranghee, Jadavpur and Baruipur Branches. All on a sudden M/s. Prime Security & Intelligence Services removed those three security guards from their services and that too without complying the provision of section 25-F of the I.D. Act.

That in order to prove the existence of employer and employee relationship between those three security guards and M/s. Prime Security & Intelligence Services, a contractor of the bank, the union has failed to produce a single scrap of paper such as Identity Cards issued either by M/s. Prime Security & Intelligence Services or by the Bank, their Attendance Register, pay slips, provident fund slips, ESI slips or the bank account of those three workmen to show remittance of their wages in their accounts, if any, by their employer or any such documents from which it can be seen that those three persons were indeed engaged by M/s. Prime Security & Intelligence Services, a contractor of the bank or to prove that they were engaged by M/s. Prime Security & Intelligence Services to work as Armed Security Guards or Gunmen at Bank of Maharashtra, Chowranghe Branch, Jadavpur Branch and Baruipur Branch.

Further, the concerned union has failed to produce copy of agreement executed between M/s. Prime Security & Intelligence Services and Bank of Maharashtra, to prove indeed Bank of Maharashtra had engaged M/s. Prime Security & Intelligence Services as contractor for supply of security guards to its different branches in the city of Kolkata and its suburb.

This Tribunal is of view mere filing of letters addressed to bank, Asst. Labour Commissioner will not itself prove the existence of relationship of employer and employees between M/s. Prime Security & Intelligence Services and those three workmen or those three workmen being engaged by M/s. Prime Security & Intelligence Services in absence of documents mentioned above to work as security guards for Bank of Maharashtra or about existence of an industrial dispute.

Further, nothing has come on record that during the subsistence of a contract between M/s. Prime Security & Intelligence Services and bank those three persons were terminated from their services or that those three person had worked for more than 240 days in a year as Bank's security guards and as employees of M/s. Prime Security & Intelligence Services. Therefore, This Tribunal is of view the union has failed to prove illegal retrenchment or termination of the services of those three security guards by M/s. Prime Security & Intelligence Services in violation of provision of section 25-F of the I.D. Act.

Further, from the pleadings of the union it appears engagement of one M/s. Vaishali Security Investigation (P) Ltd. after M/s. Prime Security & Intelligence Services by the Bank. From such fact it can be assumed perhaps on the expiry of the period of contract between bank and M/s. Prime Security & Intelligence Services, the bank has engaged a new contractor named M/s. Vaishali Security Investigation (P) Ltd.

It is settled law a person who takes a job under a contractor who too is engaged by the principal employer for a specific period of time is presumed to have knowledge that his job too is limited for the period covered under the contract. If the contract comes to an end the employee of the contractor employer cannot seek re-employment in the establishment of the principal employer and that too from a newly engaged contractor.

For the sake of argument even if we presume those three persons were engaged by M/s. Prime Security & Intelligence Services to work as security guards at three different branches of the Bank of Maharashtra, then they being direct employees of M/s. Prime Security & Intelligence Services, could have approached their immediate employer for their retention and deployment at its different work sites, if any, at the relevant time. Nothing has come on record on what terms and conditions they were engaged by M/s. Prime Security & Intelligence Services to work for bank and period of their engagement with the bank.

If the contact of the immediate/contractor employer comes to an end on the expiry of the period of contact, then service of the contractor's workmen too comes to an end at the establishment of the principal employer.

Therefore, employees of the contractor cannot claim to have been illegally retrenched or terminated from the service by the contractor employer from the service in the establishment of the principal employer.

In view of the above, union having failed to prove employer and employees relationship between those three workmen and M/s. Prime Security & Intelligence Services or existence of a contract between M/s. Prime Security & Intelligence Services and Bank of Maharashtra, the question of their termination does not arise or extending them benefits u/s 25-F of the I.D. Act too does not arise. Since the union has failed to prove the termination of those three workmen by M/s. Prime Security & Intelligence Services then question of deployment or re-employment by M/s. Vaishali Security Investigation (P) Ltd., new contractor of the bank too does not arise.

Accordingly, Ref.No.101 of 2015 is dismissed and award to that effect is passed accordingly.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 26 जून, 2024

का.आ. 1285—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (12/2017) प्रकाशित करती है।

[सं. एल -12011/22/2017- आई.आर.(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 26th June, 2024

S.O. 1285—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 *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12011/22/2017- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 12 OF 2017

Parties : Employers in relation to the management of

Union Bank of India

AND

Their Workmen

Appearance :

On behalf of Union Bank of India: Mr. Chanchal Kumar, A.R.

On behalf of the Workmen: Mr.Jagannath Chakraborty, A.R.

Dated: 17th May, 2024

A W A R D

By order No. L-12011/22/2017 (IR (B-II)) dated 16-05-2017, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

“Whether the action of the management of Union Bank of India in denying the facility of reimbursement of cost of cleaning materials for keeping houses clean and tidy to the workmen and similarly extending such facility to the Officers’ of the management at the cost of bank’s exchequer is legal and/or justified? If not, what relief the workmen are entitled to?”

The union which has espoused the dispute has filed its claim statement where it has alleged that the workmen concerned of the present proceedings are Award Staff i.e. clerks and subordinate staffs of the bank working in branches/ offices of the Bank throughout the country whose service conditions are guided by various Awards, industry level Bipartite Settlements, bank-wise agreement/ settlement and administrative orders.

The management vide its Staff Circular No.5111 dt. 19-10-2004 declared a scheme for reimbursement of cost of cleaning, disinfectant materials to officers only w.e.f. 1st October, 2004 with the following Monterey limit:- Officers in Scale I, II & III- Rs.300 p.m,

Officers in Scale IV & V – Rs.400/- p.m. and

Officers in Scale VI & VII –Rs.500/- p.m.

Such benefit was not extended to the Award Staff.

Then the concerned union immediately raised a demand for reimbursement of cost of cleaning materials to all employees of the bank respective of their post and scale of pay vide letter dt.29-10-2004, but the management did not pay any heed to their representation.

Further, by issuing another circular the bank revised the amount of disputed benefit extended only to the Grade-1 to Grade-7 Officers w.e.f. 01-01-2012 from Rs.300/- to Rs.450/- p.m., Rs.400/- to Rs.600/- p.m. and Rs.500/- p.m. to Rs.700/- p.m. on submission of declaration by those officers.

The management of the bank rejected the disputed demand made by the award staff before the Regional Labour Commissioner vide its letter no. NRO:HRM:Kol:1173/2016 Dt. 2016. Thus the conciliation ended in failure and failure report was sent to the workmen and management by the Regional Labour Commissioner on 28-02-2017.

However, on receiving the failure of conciliation report, the management issued a Staff Circular No. 6586 dt.22-03-2017 and extended the disputed facility of reimbursement towards cost of cleaning and disinfectant materials to the award staff too in the name of reimbursement of cost of “Swachhata Samagri” w.e.f. 01-04-2017 on quarterly basis and on submission of declaration. However, the union has claimed the benefit w.e.f. 01-10-2014.

The bank has contested the claim of the union by filing written statement and contended that the issue under adjudication does not assume the character of an industrial dispute as it is not covered under the Third Schedule of the Industrial Disputes Act, 1947. That the service conditions of the workmen are governed by the provisions of Sastry Award, Desai Award as also the bipartite settlement entered into between the representative unions and the Indian Bank Association. The issue under adjudication is not a part of the conditions of the services or terms of employment of those workmen.

That the reference is un-sustainable in law as appropriate Govt. has acted beyond the jurisdiction by referring the matters which are not covered under the scope and ambit of the Industrial Disputes Act as referred to u/s 2(k) of the said Act of 1947. The Industrial Tribunal being a creature of statute and it cannot act beyond the scope and ambit of the Act of 1947. The Tribunal has no jurisdiction u/s 7-A of the Act.

The Union which has espoused the dispute has no locustandi or representative character. That appropriate Government who referred the matter has failed to appreciate that there cannot be equality between two unequal groups i.e. workmen and the Officers. Further, it has alleged the appropriate government has failed to appreciate that majority of the work force has accepted the policy with their open eyes and same cannot be a subject matter of the industrial dispute for a handful of employees who are microscopic in nature.

That there cannot be any comparison between the officers of the bank as well as the workmen working in the bank. That there are not only difference in educational qualifications, conditions of service, hours of work, enjoyment of benefits etc. The service conditions of workmen category of the bank are governed by the provisions of Sastry Award, Desai Award as well as also the bipartite settlements. Therefore, the scheme of reimbursement of cost of cleaning disinfectants materials provided to the officers vide circular dt.5111 dt. 19-10-2004 and revision of such allowance in the year 2012 are not illegal.

It has further alleged that by issuing circular no.6586 dt.22-03-2017, the management has already extended the disputed benefits to the Award Staff i.e. to non-subordinate staff Rs.120/- per month and to subordinate staff Rs.100/- per month w.e.f. April, 2018 with quarterly payment on declaration. Therefore, it has prayed for dismissal of the claim of the union.

The management by filing a petition dt.03-06-2019 has prayed for hearing the present reference case on the point of maintainability and has contended what has been stated in its written statement filed on the same day and already discussed above.

In the present case the dispute revolves around non-extension of scheme for reimbursement of cost of cleaning and disinfectants materials to award staff and which was otherwise provided to the officer of the bank from Grade-1 to Grade-7 in the year 2004 and later it was revised in the year 2012.

It is settled law the Tribunal has to confine itself within the four corners of the order of reference and it cannot traverse beyond the same and decide issue which has not been referred to it.

The order of reference prima facie shows the issue under dispute was referred to this Tribunal by the Central Govt., Ministry of Labour for adjudication on 16-05-2017. However, it only speaks whether the management of the bank is justified in denying the facility of reimbursement of cost of cleaning materials for keeping houses clean and tidy to the workmen and extending the same benefit to the officers of the management at the cost of bank's exchequer to be legal and whether the workmen are entitled to get the disputed benefit or not.

Thus, this Tribunal finds the schedule of reference is totally silent, whether management's action not extending the disputed benefit to the workmen in the year 2004 or in 2012 to be unjustified or as claimed by the union in its claim statement w.e.f.01-10-2014. It merely speaks that non-extension of scheme for reimbursement of cost of cleaning and disinfectants materials to the award staff by the management of the bank is justified or not.

However, it has been admitted by the union the management of the bank by issuing staff circular no.6586 dt.22-03-2017 has already extended the benefit of disputed scheme to its Award Staff, who do not belong to Grade-1 to Grade-7 employee of the bank, from the month of April, 2017. The reimbursement limit has been fixed at Rs.120/- per month for non-subordinate staff and Rs.100/- per month for the subordinate staff. That payment would be made quarterly on submission of declaration.

Thus, it appears before the dispute is referred to this Tribunal, the management of the bank has already extended the benefit of reimbursement of cost of cleaning materials for keeping houses clean and tidy to its Award Staff or to the concerned workmen whose cause have been raised by the union.

Therefore, in view of above this Tribunal holds the dispute raised by the union being already settled by the management by issuing staff circular no.6586 dt.22-03-2017 and having extended the benefit from the month of April, 2017 i.e. before the issuance of order of reference on 16-05-2017 by the Central Govt., the dispute under reference has become infructuous.

It is worth to mention here, union has failed to produce any materials before the Tribunal to prove raising an industrial dispute in the year 2004 and 2012 itself or immediate thereafter for non-extension of the scheme for reimbursement of cost of cleaning and disinfectants materials introduced by the bank only to the officers of Grade-1 to Grade-7 excluding the workmen in the year 2004 or when there was a revision of such allowance in the year 2012, rather the union in its claim statement has demanded such benefit w.e.f. October, 2014.

Accordingly, Ref. 12 of 2017 is disposed of being not maintainable and award is passed accordingly.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 26 जून, 2024

का.आ. 1286.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोलकाता पोर्ट ट्रस्ट के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (22/2016) प्रकाशित करती है।

[सं. एल-32011/06/2015-आई.आर.(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 26th June, 2024

S.O. 1286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.22/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*

Kolkata as shown in the Annexure, in the industrial dispute between the management of Kolkata Port Trust and their workmen.

[No. L-32011/06/2015- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 22 OF 2016

Parties: Employers in relation to the management of

Kolkata Port Trust

AND

Their Workman/Union

Appearance:

On behalf of the Management: Mr. Jatindra Barik, Ld. Advocate.

On behalf of the Workman/Union: Mr. Chinmoy Roy, A.R.

Dated: 27th May, 2024

A W A R D

Govt. of India, Ministry of Labour vide Order No. L-32011/06/2015- IR (B-II) dated 28-02-2016, in exercise of the power conferred under section 10(1)(b) and (2A) of the Industrial Dispute Act, 1947 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of management of Calcutta Port Trust is justified by discriminating in regard to the protection of scale of pay of Shri Ranjit Koley is legal and/or justified in comparison to other two employees namely Shri Mafizur Rahman Middy and Pankaj Kumar Saha is legal and or justified? If not, what relief the workmen are entitled to?”

The facts giving rise to the present dispute as gathered from the claim statement and written objection filed by the parties as well as from the evidence that have come on record are that the concerned workman Sri Ranjit Koley, joined the establishment of Calcutta Port Trust as an unskilled labour, in class IV cadre, having pay scale of Rs.3840-8-100-6720 (revised) in Mechanical Engineering Department. Subsequently, he was promoted to the post of Casion Capstan Pinstock Operation (C.C.P.O.), a Class-III cadre post having pay scale of Rs.4300-120-5280-180-8120 (revised) with retrospective effect from 17-08-2001 vide order dated 12.12.2005.

The Calcutta Port Trust, Labour & I.R. Department issued an inter department notification no.Lab/30/PM/Craft/481(A) dt.18-06-2004, inviting applications from willing staff of all departments, who are able bodied below 45 years of age, having experience in the marine job and having educational qualification of Class-VIII passed for adjustment against the vacancy of Bhandari, Topaz, Masalchi, Lascar, Greaser etc. under Marine Department in the pay scale of Rs. 3800-6720-3900-6860/- plus usual allowance and benefits attached to the posts under the Marine Department.

In pursuance of such circular, the concerned workman Sri Ranjit Koley applied for the post mentioned in the circular. His application was considered and accepted by Marine Department. Accordingly, he was transferred to the Marine Department and posted as a Lascar (Class –IV Post) of Dock Master Section of Marine Department and his pay scale was fixed at Rs.3840-6720.

That he filed an application before the authorities of Calcutta Port Trust for protection of his pay and granting him the previous pay scale of Class-IV (i.e. Rs.4300-8120) and which was denied by the management.

That it has been alleged by the union that other two employees namely Shri Mafizur Rahman Middy and Pankaj Kumar Saha, who after their re-deployment against the post equivalent to pay scale of Class-III post voluntarily agreed to work against class-IV post of Greaser were given protection of their earlier pay scales of Class-III post though they were working in the lower post (Class-IV) on their applications. Thus, the union which has espoused the dispute has alleged that the management of Kolkata Port Trust discriminated the concerned workman denying pay protection while granting pay protection to other two employees standing in the same footing. Thus, the union has prayed that the management be directed to give pay protection to Sri Ranjit Koley to the scale which he had last drawn as Class-III cadre employee.

On the other hand the management in its written statement has contended that the case of Sri Ranjit Koley and that of the other two workmen are not identical and stand entirely in two different footings. That Sri Ranjit Koley, a Class-III employee voluntarily applied to work as a Class-IV employee in the lower scale in pursuance of intra-department circular no. Lab/30/PM/Craft/481(A) dt.18-06-2004.

While Shri Mafizur Rahman Middy, a Coppersmith and Sri Pankaj Kumar Saha, a Leading Hand Fitter, of Lighting Office of Marine Department, were Class-III cadre workmen. In view of introduction of Solar lights in place of Gas lights in the navigational channel of KOPT, the services of workshop staff attached to Lighting Office, under Superintendent, Dredger and Despatch Service have become superfluous and those staff were idle and attached to Surplus Pool of Marine Department. However, both of them were offered suitable alternative employment and posted them as a Mechanic in Dredger Mahaganga. That they expressed their inability to work in a long sailing Dredge Mahaganga due to medical ground and old age and they offered to work as Class –IV cadre Greaser post, if management thinks fit or place them to any other post as per their class-III cadre. The management posted them as Greaser and extended them pay protection.

That those two employees were declared surplus by the management and as such allowed pay protection. Therefore, the management has alleged that Sri Ranjit Koley, who voluntarily applied to work for lower post and as such he is not entitled to get benefit of pay protection.

The union to substantiate the claim made by it has examined the concerned workman as W.W. No.1 and produced following documents:-

1. Copy of letter dt. 12-12-2005 addressed to workman by Director, Marine Department whereby he was directed to report to H.M. (P) / D.M. to work as a Lascar in any section of the Marine Department and which has been marked as Exhibit-1.
2. Copy of letter dt. 09-12-2005 addressed to the concerned workman shows that he was released from the department where he used to work as a C.C.P.O. to report to Marine Department w.e.f. 10-12-2005 as per letter no. Mech/IRO/8/3302 dt.05-12-2005 and which has been marked as Exb.2.
3. Copy of letter dt.30-03-2007 of Dock Master to Sr. Accounts Officer relating to encashment of leave by Sri Ranjit Koley, Lascar shows that Sri Ranjit Koley, an unskilled labour, appointed on 17-02-1996 was promoted to the post of C.C.P.O. on 17-08-2001, a post re-classified as Class-III cadre in the scale of Rs.4300-120-5260-130-8120, that he was transferred to work as a Lascar (bottom post) vide D.M.D.'s No. MRM/ 2437 dt.12-12-2005. That Sri Koley was reverted to the category of Class-IV vide D.M.D.'s order no. 2799 dt.07-08-2006 and his pay scale was fixed at Rs.3840-80-4320-100-6720 from the date of transfer as Lascar and such letter has been marked as Exb.-3.
4. Copy of representation dt. 06-05-2008, submitted by Sri Ranjit Koley before the Director, Marine Department, KOPT for protection of his pay at old scale of Class-III cadre staff and such letter has been marked as Exb-4.
5. Copy of union's letter dt. 28-07-2008, 25-11-2008 and 19-03-2009 to the Director, Marine Deptt. for protection of pay of Sri Ranjit Koley in the same line as it was done in case of Sri Mafizur Rahaman Middy and which have been marked as Exb.5, 5/A and 5/B.
6. Copy of letter dt.08/09-06-2009 of Marine Deptt. to the union turning down the request for pay protection of Sri Ranjit Koley, Lascar as the workman volunteered to work in the lower category and which has been marked as Exb.6.
7. Copy of union's reply dt. 20-07-2009 to Exb.-6 along with pay slip of Sri Mafizur Rahaman Middy and which have been marked as Exb.7 collectively.
8. Two copies of same note sheet dt. 11-12-2008 of Marine Deptt. regarding pay protection of Sri Mafizur Rahaman Middy, a surplus employee like other two workmen named Sri Pankaj Kumar Saha and Sri Dinabandhu Karmakar, to whom pay protection was granted have been marked as Exb.8 collectively.
9. Copy of Marine Deptt. letter dt.23-12-2008 whereby protection of scale of Sri Mafizur Rahaman Middy was approved along with a copy of his representation dt.04-05-2005 and which have been marked as Exb.9 collectively.
10. Copy of letter of Labour Adviser Industrial Relation Officer dt.13-04-2010 addressed to the union informing the demand for pay protection of Sri Ranjit Koley was declined by the management along with the copy of representation of Sri Ranjit Koley and which have been marked as Exb.-10 & 11.
11. Copy of union's complaint letter dt. 18-02-2013 to ALC (Central), Kolkata, for rejection of representation of Sri Ranjit Koley for protection of pay scale by the management and which has been marked as Exb.12.

12. Copy of explanation of Labour Adviser Industrial Relation Officer dt. 23-07-2013 to the ALC (Central) marked as Exb.13.
13. Copy of union's letter dt. 12-09-2013 to the management marked as Exb.14 and
14. Copy of conciliation failure report of ALC (Central), Kolkata dt.10-12-2015 to the Ministry of Labour marked as Exb.15.

On the other hand the management has examined Capt. Abhijit Ghosh, Director, Marine Deptt. of Kolkata Port Trust as M.W.1 and through him exhibited following documents:-

1. Kolkata Port Trust, Labour & I.R. Department, notification no.Lab/30/PM/Craft/481(A) dt.18-06-2004 inviting applications from eligible employees of all departments for filling the vacancies of Bhandari, Topaz, Masalchi, Lascar, Greaser etc. under Marine Department and which has been marked as Exb.-A.
2. Marine Deptt. letter dt.25/28-11-2005 to the Chief Mechanical Engineer for transfer of Sri Ranjit Koley, C.C.P.O. to the selected post of Lascar in Marine Deptt. with a direction to report immediately has been marked as Exb. -B.
3. Copy of letter dt.05-12-2005 to Sri Ranjit Koley, C.C.P.O. informing him that he was selected for the post of Lascar in the Marine Deptt. in view of his application for the post under Marine Deptt and with a direction to report him immediately has been marked as Exb.-C.
4. Copy of release order of Sri Ranjit Koley, C.C.P.O. dt. 19-12-2005 issued by Hyd Power Station of Calcutta Port Trust, has been marked as Exb.-D.
5. Copy of two notices of Director, Marine Deptt. dt.01/03-03-2005 regarding staff Sri Mafizur Rahaman Middy, a Coppersmith and Sri Pankaj Kumar Saha, Leading Hand Fitter of Lightening Office found surplus to requirement have been marked as Exb.E & E/1.
6. Copy of two representations of Sri Pankaj Kumar Saha, a Mechanic of Dredger Mahaganga dt.28-03-2005 and 08-04-2005 for transferring him to any other department after withdrawing him from the vessel on the ground of his old age have been marked as Exb. F & F/1.
7. Copy of representation of Sri Mafizur Rahaman Middy dt.04-05-2005 for his transfer as a Mechanic from Dredger Mahaganga due to his ill health has been marked as Exb.G.

Both sides have filed their written notes of argument and which contains the facts pleaded by them in their respective pleadings.

Having regards to the submission made by both sides in their written notes of arguments, both documentary and oral evidence adduced by the parties, the only question that requires determination is whether Sri Ranjit Koley, a class-III cadre workman who has voluntarily applied to work in the lower post or in class-IV cadre, in pursuance of inter-departmental circular Lab/30/PM/Craft/481(A) dt.18-06-2004 and in the scale of pay of Rs.3800-6720/ Rs.3900-6860/- is entitled to get pay protection or claim pay parity as class-III cadre workmen?

Exhibit-A shows the Calcutta Port Trust, Labour & I.R. Department issued an inter departmental notification no.Lab/30/PM/Craft/481(A) dt.18-06-2004, for filling the vacancies of Bhandari, Topaz, Masalchi, Lascar, Greaser etc. under Marine Department, from interested eligible workmen of all departments of Kolkata Port Trust, who are able bodied, below the age of 45 years with minimum educational qualification Class-VIII pass, in pay scale of Rs.3800-6720-/Rs.3900-6860/- plus usual allowances and benefits attached to the posts under the Marine Department and with a direction to submit the applications before 4th July, 2004.

The workman concerned in his evidence in chief on affidavit as well as in his cross candidly admitted that he applied in response to the above mentioned circular (Exb.A). He has also admitted on the basis of his said application he was released from C.M.E's Deptt. through letter no.Hyd/Power Station, NSD, Est.-199 dt.09-12-2005, where he was advised to report to Marine Deptt. vide Exb.-2. Therefore, he was released to join the post of Lascar vide Exb.1. He has also admitted that the post of Lascar is a Class-IV post, having pay scale of Rs.3840-80-4320-100-6720. That before he was transferred as a Lascar he was working as C.C.P.O., a Class-III post bearing pay scale of Rs.4300-120-5260-130-8120. That he joined the post of Lascar in the month of December, 2005 but he filed representation for protection of his pay scale in the year 2008 through union when he found Grade-III employees who were transferred to work in Grade-IV post were given pay protection by the management. That his representation for pay protection made through the union was rejected by the management.

The M.W. 1, Director of Marine Deptt., during his cross has stated that the duty hours of Sri Ranjit Koley, a C.C.P.O., at Mechanical Engineering Deptt. was 8 hours and was a shift duty, but his duty hour as a Lascar in Marine Deptt. as Class-IV category employee is 12 hours. That he applied for lower scale post in order to get financial benefits of fixed over time. Though his pay scale was lower than his previous post as Class-III category workman but

his gross pay as Class-IV employee is more than what he used to draw as Class-III employee. He voluntarily applied for lower scale post to get the benefit of fixed over time.

So, it appears that Sri Ranjit Koley, C.C.P.O. of Mechanical Department had voluntarily applied for lower post with a lower pay scale in order to draw more gross salary than what he used to draw as a Grade-III employee where there was no scope to draw fixed over time and where working hour was 8 hours and was a shift duty and lower grade post is of 12 hours duty.

Normally pay protection is not given if an employee is recruited to lower post from higher post. As per rules an employee can only apply for higher post with higher scale of pay. If any person voluntarily apply for lower post then there is no provision for pay protection as the post to which the workman claimed parity is not equivalent to the post which was earlier held by him. In the present case the concerned workman while working in the post of Cadre-III with higher pay scale had voluntarily opted to work at lower cadre with lower scale. Therefore, the relief sought by the concerned workman is that of upgraded post than the post for which he has voluntarily opted and working cannot be granted.

However, the concerned workmen has alleged that other two workmen namely Sri Mofizur Rahaman Middy, Coppersmith and Sri Pankaj Kumar Saha, Leading Hand Fitter were employees of Class-III cadre. They have been posted in the lower grade i.e. in the class-IV cadre as Greasers with pay protection of Class-III cadre. Since he too stand on the same footing with those two workmen of Marine Deptt., the management cannot discriminate and deny him pay protection to his previous scale.

It is the case of the management that those two other workmen never voluntarily applied for the post of Class-IV cadre like Sri Ranjit Koley rather being declared surplus staff of Lighting Deptt. were deployed to work as Mechanic in Dredger Mahaganga. They submitted representations for withdrawing them from the Dredger Mahaganga and as such they were posted as Greasers in Class-IV cadre with pay protection.

Exhibit-E and E-1 show that in view of introduction of Solar Lights in place of Gas Lights in the navigational channel of KOPT, the services of workshop staff attached to Lighting Office under Superintendent, Dredger & Despatch Service have become superfluous. Sri Mofizur Rahaman Middy, Coppersmith and Sri Pankaj Kumar Saha, Leading Hand Fitter of the said workshop were idle for want of work. Therefore, they were declared surplus staff w.e.f. 04-03-2005.

The management decided to offer them a suitable alternative employment and till such alternative employment was offered to them they were attached to surplus pool of the Establishment Officer of Marine Department on the condition their service will be utilised as and when required with benefits that are applicable to the particular post against which they may be made to work and in case of their refusal to accept the same, their services shall be liable to be terminated.

Further, Exhibit-F and F-1 show that Sri Pankaj Kumar Saha, who was posted to Dredger Mahaganga as Mechanic on temporary basis had filed representation for his withdrawal from Dredger stating that he was more than 50 years old and very difficult for him to adjust with the atmosphere of Dredger Mahaganga in her long sailing period. Therefore, he had requested the management to attach him in the parallel post of Leading Hand Fitter or a job similar in nature and even in Class-IV cadre in the shore/town. He had also undertaken to perform his duty in sailing vessels in the event of acute urgency.

Exhibit-G shows that after Sri Mafizur Rahaman Middy was declared as a surplus he was posted as Mechanician in Dredger Mahaganga. That he has stated that due to his inherent Asthama problem it is difficult to work for him to Engine Room. That he had also requested the management to transfer him as a Greaser in any of the Tugs, protecting the scale of pay so that he can continue his service and also requested to transfer him from Dredger Mahaganga.

Exhibit- E, F and G show the case of Sri Mafizur Rahaman Middy and Sri Pankaj Kumar Saha, stand in totally different footings than the case of Sri Ranjit Koley, the concerned workman. It appears those two workmen were declared surplus by the management due to introduction of Solar lights in place of Gas lights in the navigational channel of KOPT. That they were attached to Lighting Office as Coppersmith and Leading Hand Fitter. They were placed in a surplus pool and they were made to work as Mechanic in Dredger Mahaganga. That they have filed representations for their withdrawal from Dredger Mahaganga due to old age and on medical ground and requested the management to place them in any department and if possible they may be posted as Greaser in Class-IV cadre.

So, here it is seen the option was with the management, whether to retain those two surplus workmen of Class-III cadre in the same cadre or to make them work in class-IV cadre job of Greaser. In fact Sri Pankaj Kumar Saha, in his representation has requested the management to post him or attach him in the parallel post of Leading Hand Fitter or a job similar in nature and even in Class-IV cadre in the shore/town. He had also undertaken to perform his duty in sailing vessels in the event of acute urgency.

It is true vide Exb. G, Sri Mafizur Rahaman Middyia requested the management to transfer him as a Greaser in any of the Tugs, protecting the scale of pay so that he can continue his service and also requested to transfer him from Dredger Mahaganga on the ground of his ill health.

M.W. No. 1 in his cross examination has stated both the above workmen were withdrawn from Mahaganga Dredger and brought back to shore posting as Greaser, in Grade-IV category. The job of a Greaser is required in the ship and as such they were made to work on the berthed ships. He has further stated that surplus notice itself provide about the protection of their pay scale.

So, it appears the management decided to post those two surplus workmen of Class-III cadre to do the job of Greaser, a Class-IV cadre job instead of posting them to the other posts of Class-III cadre. Therefore, this Tribunal is of view that those two workmen cannot be made suffer due to the fault of the management or inability of the management to post them to other Class-IV cadre posts. If the management in its wisdom decided to post those two persons in Grade-IV post of Greasers, then the management is bound to give them pay protection. Those two workmen cannot become the victims because of the fault of the management in not posting them to the cadre to which they belonged.

In present case Sri Ranjit Koley, a Class-III cadre employee, knowing fully and voluntarily applied for the lower post of Class-III cadre and joined lower post carrying lower pay scale and as such he cannot seek pay protection to higher scale. So, his case does not stand in the same footing with that of Sri Mafizur Rahaman Middyia and Sri Pankaj Kumar Saha.

Therefore, this Tribunal does not find any merit in the present reference case. Accordingly, Reference Case no. 22 of 2016 is dismissed and award to that effect is passed.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 26 जून, 2024

का.आ. 1287.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम बंगा ग्रामीण बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (83/2014) प्रकाशित करती है।

[सं. एल -12011/93/2014- आई.आर.(बी-1)

सलोनी, उप निदेशक

New Delhi, the 26th June, 2024

S.O. 1287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.83/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Paschim Banga Gramin Bank and their workmen.

[No. L-12011/93/2014- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 83 OF 2014

Parties : Employers in relation to the management of

Paschim Banga Gramin Bank

AND

Their Workmen/ Union

Appearance :

On behalf of Paschim Banga Gramin Bank: Mr. Samrat Mukherjee, Ld. Advocate.

On behalf of the Union/Workmen: Mr.Subhadip Bhattacharjee, Ld. Advocate.

Dated: 28th May, 2024

A W A R D

By order No. L-12011/93/2014 –IR(B-II) dated 16-12-2014, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

“(1) Whether the action of management of Paschim Banga Gramin Bank in depriving Smt. Gouri Routh for not providing whole time casual on and other fringe benefits like Bonus, Leave etc. is legal and/or justified? If not, what relief the workman is entitled to?

(2) Whether the action of management of Paschim Banga Gramin Bank by issuing administrative circular to engage casual worker maximum 14 days in a month and 60 days in a year is legal and/or justified? If not, what relief the workman is entitled to?”

The facts giving rise to this case in brief are that Paschim Banga Gramin Bank was formed on 26-02-2007 with the amalgamation of three Gramin Banks namely Howrah Gramin Bank, Bardhanman Gramin Bank and Mayurakshi Gramin Bank by virtue of Govt. Notification dated 26-02-2007 and established under the Regional Rural Banks Act, 1976. The United Commercial Bank is the sponsor bank. Bank has 225 branches, 4 regional offices and one administrative or head office.

It has been alleged by the union in its claim statement that for smooth functioning of the banking business and administrative activities, the management of bank by adopting unfair labour practice engaged workers on casual and/or part time and/or daily wage basis for doing the perennial nature of job of office attendant and sweepers instead of filling up the permanent vacant posts in order to save cost towards salary expenditure and other financial benefits which are otherwise paid to a permanent staff. Thus, bank issued circular dated 11/20-09-2007 for engagement of casual workers purely on temporary basis for not more than three times in a calendar month and not more than 14 days at a stretch in order to overcome the exigency arising out of non-availability of service of regular staff. The Bank has further issued another circular on the same day to engage part time sweepers on monthly consolidated wages and casual workers on daily wages basis with the benefit of provident fund facility and maximum 30 days paid absence in a calendar year with certain conditions.

Further, it has alleged that the bank issued another circular dt. 20-02-2009, for engagement of casual workers temporarily on daily wage basis during the period of absence of part time sweeper and part time sweeper can continue to work till they attend the age of 60 years. By issuing another circular dt. 09-06-2009 the bank extended Group Saving Link Insurance Scheme to part time sweepers and part time casual workers. That by issuing circular dt.21-12-2010 the wages along with City Compensatory Allowance of casual workers were revised by the bank.

Thus, union has alleged the management with a malafide intention issued circular dt.11/20-09-2007 restraining the engagement of casual workers for maximum period of 60 days in a year, so no casual employer can raise demand for permanency in service. The management has created discrimination among the same group of workmen known as part time casual workers.

That bank issued a notification dt. 23-07-2013 for creation and filling up of 368 vacancies in various categories of posts with reference to the position of vacancy as stood on 31-03-2013. That in such notification there was a clear vacancy of 47 posts of subordinate staff or that of multipurpose office attendant and which prove the bank for its smooth running of business engaged part time casual workers and part time sweeper to work against the 47 declared vacancies.

The bank to get its perennial nature of job of an office attendant engaged Smt. Gouri Routh as a part time casual worker with P.F. facilities at Howrah Branch on 16-02-2010. She rendered her continuous service and discharged her duty which was perennial in nature, but bank suddenly stopped payment of wages to her from the month of January, 2013. That Smt. Routh having rendered service for more than 240 days in the year 2010 and 2011, she was arbitrarily retrenched from the service without following any mandatory provisions relating to retrenchment as laid down under the Industrial Dispute Act, 1947 and Rules.

Accordingly, the union challenged such illegal retrenchment of part time casual worker and raised an industrial dispute before DLC (Central) on 14-02-2013. However, during the course of conciliation proceeding Smt. Routh was allowed to re-join the bank, but at its Dumurjola branch on 23-03-2013, where she was made to work only 2 days in a week though there was clear vacancy of the post of subordinate grade at Dumurjola branch.

Later, she was brought back to Howrah Branch on 10-11-2014, but her working days were reduced and consequently her wages also reduced and deprived her other fringe benefits like bonus, leave etc. just to deprive her right to claim whole time casual job or regularisation. It has also alleged keeping 42 posts of subordinate staff vacant the management of the bank is getting the work of those vacant posts through part time casual workers and part time

sweepers. That out of 42 casual workers only 17 are engaged as whole time casual and they are made to work for all working days in a month with P.F. and other facilities. Thus, management has created discrimination amongst part time casual workers.

The Paschim Banga Gramin Bank (Officers and Employees) Service Regulation, 2010 was notified on 6th October, 2010 and which clearly empowers the Chairman to engage casual employees in the bank for a period not exceeding 90 days in a year to meet any exigency. Therefore, the disputed circulars dt.11/20-09-2007 is contrary to Regulations, 2010.

Therefore, it has alleged the action of the management of the bank is absolutely unlawful and unjustified in denying Smt. Routh a whole time casual job with fringe benefits like bonus, leave etc. The union has also alleged administrative circular engaging casual workers for 14 days in a month and 60 days in a year is also unlawful. Therefore, it has prayed for absorption of Smt. Routh should as a permanent workman with all benefits with retrospective effect.

The bank in its written statement has alleged that the union which has espoused the dispute in its claim statement has dwelt at length on the aspect of regularisation of 42 part time casual workers and which is beyond the order of reference. Therefore, this Tribunal has no jurisdiction to decide the issue regarding regularisation of 42 daily casual workers as claimed by the union.

It has further alleged the trade union which has espoused the dispute has no *locustandi* to raise an industrial dispute in respect of its non-member. Smt. Gouri Routh a part time Sweeper of the bank and not a permanent employee of the bank and not a member of the union in question, which is a union of regular employees of the bank.

Further, it has been alleged by the bank that Smt. Routh used to accompany her husband Sri Samir Kumar Routh a part time Sweeper of Howrah branch regularly. Seeing her sitting idle, the staff of the bank used to use her service on payment of personal tips. Voluntarily she started doing some petty odd jobs. Therefore, her service was utilised by the bank for a few days for few hours. Such practice continued for about two years till permanent office attendant (multipurpose) was posted in the branch in the year 2012. Therefore, the branch stopped the service of Smt. Routh. Then the union raised the dispute before ALC (Central). Under the pressure of the union the management had to re-engage Smt. Routh as a casual daily wage earner at its branch at Dumurjola. Further under the pressure of the union she was brought back to Howrah branch and was paid Rs.238/- per day.

It has been alleged that after the amalgamation of the banks and creation of Paschim Banga Gramin Bank in the year 2007, in the absence of regular messenger and permanent sweeper at the branches and offices and to overcome the difficulties and to ensure proper customers services, the bank issued two circulars dated 11/20-09-2007 for engagement casual workers purely on temporary basis for not more than three occasions in a calendar month and not more than 14 days at a stretch when the regular Messenger is on leave or compelled to spend the full duty time outside branch or office or where there is no regular messenger. Such person cannot be engaged for more than 60 days in a year. By issuing another circular the bank engaged part time sweeper on monthly consolidated wages and casual workers on daily wage basis with the benefit of provident fund and compensation at the rate of their daily wage in lieu of their absence for the reasons beyond control for maximum 30 days in a calendar year with certain terms and conditions but with no right to claim absorption or regularisation. It has alleged the union which has espoused the dispute remained silent when those circulars were issued and did not raise any dispute or objection challenging those two circulars dated 11/20-09-2007.

It has also alleged the Regional Rural Bank (Appointment, Promotion of Officers and Employees) Rule, 2010 provides for recruitment to the post of Gr. C employees in subordinate cadre through Employment Exchange, Sainik Board or other agencies catering to the welfare of Schedule Caste or Schedule Tribe, Physically challenged persons or other special category of persons as are recognised by the Central Govt. or the State Govt. having jurisdiction over the concerned Regional Rural Bank. The bank cannot make any appointment in the Gr. C subordinate post without adhering to the above rules. Pursuant to such rules, the Board of Directors of the bank declared vacancies in different categories of posts vide circular dt.23-07-2013 including vacancy for 47 office attendant (multipurpose).

That Bank could not proceed with the appointment to the Group-C subordinate post under the pressure of the union and which has filed Writ Petition No.W.P. No.6939 (W) of 2012, where they have demanded absorption of some daily wagers and part time sweeper in regular role as office attendant (multipurpose) and one of the writ petitioners is the husband of Smt. Routh. That such writ petition is still pending before the Hon'ble High Court.

As per Sri S. K. Mitra Committee report Regional Rural Bank has been authorised to outsourced the job of sweeping, cleaning and maintenance, security, IT Software development and maintenance, business facilities, intermediaries, cash remittance, courier services etc.

That in the year 2015 the bank found there was 67 excess office attendants. It has alleged that Smt. Gouri Routh was never employed by the bank as a permanent staff. She was engaged as a daily wager at Howrah Branch that too under the pressure of the union which has espoused the present dispute. She was re-engaged and posted at

Dumurjola Branch on daily wage basis on the pressure of the union. Therefore, she is not entitled to get the relief as prayed for and prayed for dismissal of the reference.

The Union to prove and substantiate its claim and case has examined its General Secretary Sri Goutam Mukherjee, as W.W. No.1 and its Jt. Secretary Sri Prasenjit Roy Chowdhury, as W.W. No.2. The union has filed following documents and which have been exhibited on formal proof being dispensed with vide order dated 05-01-2016 :-

1. Copy of Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007 and Copy of Circular no. PBGB/HO/PAD/CR/ 102/2007-2008 dt. 11/20-09-2007, the two disputed circulars and which have been marked as Exhibit-W-1.
2. Copy of Circular no. PBGB/HO/PAD/CR/194/08-09 dt. 20-02-2009 regarding engagement of casual worker during leave or absence of part time sweeper and which has been marked as Exhibit-W-2.
3. Copy of Circular no. PBGB/HO/PAD/CR/118/10-11 dt. 21-12-2010 regarding revision of daily wage of casual worker w.e.f. 20-02-2010 and which has been marked as Exhibit-W-3.
4. Copy of Circular no. PBGB/HO/PAD/CR/2757/12-13 dt. 04-12-2012 regarding engagement of casual worker in absence of regular messenger and for allotment of P.F. No. to casual workers before 15-12-2012 and which has been marked as Exhibit-W-4.
5. Copy of Circular no. PBGB/HO/PAD/CR/44/2013-14 dt. 23-07-2013 regarding declaration of vacancies in various categories of posts and filling it through promotion and recruitment and which has been marked as Exhibit-W-5.
6. Copy of written complaint of the union before the ALC, Kolkata dt. 03-04-2014 along with the list of 42 casual workers regarding reducing the working days of the part time casual workers and part time sweepers for the purpose to evade P.F. benefits etc. and which has been marked as Exhibit-6.
7. Copy of written complaint of the union before the ALC, Kolkata dt. 14-02-2013 for non-payment of wages to retrenched part time casual worker Smt. Gouri Routh and which has been marked as Exhibit-W-7.
8. Copy of letter dt. 25-02-2014 of ALC (C), Kolkata to the Chairman of Gramin Bank, which has been marked as Exhibit-W-8.
9. Copy of UCO Bank circular dt. 04-06-2009 regarding waiver of a debarment clause in respect of educational qualification in the matter of empanelment and absorption of persons engaged on daily wage basis and which has been marked as Exhibit-W-9.
10. Copy of Regional Manager, Howrah's letter dt. 13-06-2013 to the General Manager of the bank regarding period of engagement of five part time causal workers under its Region and which has been marked as Exhibit-W-10.
11. Copy of conciliation failure report of ALC (C), Kolkata dt.17-11-2014 to the Ministry of Labour and which has been marked as Exhibit-W-11.
12. Copy of award passed in Reference Case no.01/1988 passed on 30-04-1990 and which has been marked as Exhibit-W-12.
13. Copy of judgment passed by Orissa High Court in Management of UCO Bank –vs- Govt. of India on 20-06-2010 which has been marked as Exhibit-W-13.
14. Copy of office memorandum of Ministry of Personnel, Public Grievance and Pensions (Department of Personnel & Training) No.49014/2/86/Estt. (C) dt. 07-06-1988 and which has been marked as Exhibit-W-14.
15. Copy of award passed in Industrial Dispute No. 91/2013/CGIT, Chennai on 10-02-2015 and which has been marked as Exhibit-W-15.
16. Copy of letters dt. 08-08-2007, 12-04-2007, 22-05-2006 and 19-05-2006 of Under Secretary to the Govt. of India, Ministry of Finance and which have been marked collectively as Exhibit-W-16.
17. Copy of letter dt. 20-05-2013 of Joint Secretary to the Govt. of India, Ministry of Finance and which has been marked collectively as Exhibit-W-17.

The order sheet dated 04-04-2016 shows further following documents have been exhibited from the side of the union on formal proof being dispensed with.

18. Copy of Pay in Slip dt.12-06-2013, 15-07-2013 for Rs.2/- each in the name of Smt. Gouri Routh along with statement of wages of Smt. Gouri Routh for the month of January, 2015, February, 2015, March, 2015, May, 2015 and June, 2015 which have been marked as Exhibit-W-18 collectively.
19. Copy of appointment of Md. Akbal Jafar as Office Attendant (multipurpose) dt. 15-09-2011 issued by the Bank and which has been marked as Exhibit-W-19 and
20. Copy of Circular no. PBGB/HO/PAD/CR/1045/2015-16 dt. 01-07-2015 regarding outsourcing of contract worker to work as multipurpose worker and which has been marked as Exhibit-W-20.

The management of the Bank has examined Sri Samar Kumar Halder, Chief Manager (Inspection), Head Office as M.W. No.1 and Sri Subhamoy Das, Assistant Manager (Pension Cell) Head Office as M.W. No.2. That following documents filed from the side of the management have been marked as exhibit on formal proof being dispensed with vide order dt.04-04-2016:-

1. Photocopy of paper cutting of Bartaman dt.04-04-2015 regarding employment of Civic Volunteers and which has been marked as Exhibit-M-1.
2. Photocopy of paper cutting of Bartaman dt.26-06-2015 regarding tenure of employment of Civic Volunteers and which has been marked as Exhibit-M-2.
3. Copy of West Bengal Police Gazette dt.01-03-2013 and which has been marked as Exhibit-M-3.
4. Copy of memo no. 878/Org./118/2011 dt.18-06-2012 of West Bengal Police Directorate regarding creation and filling up 3351 post of Village Police Volunteers which has been marked as Exhibit-M-4.
5. Copy of Gazette of India Extraordinary, Part-II which has been marked as Exhibit-M-5.
6. Photocopy of relevant page of writ petition no.6939 (W) of 2012 and which has been marked as Exhibit-M-6.
7. Photocopy of recommendation of S.K. Mitra Committee and which has been marked as Exhibit-M-7.

Ld. Counsel for both sides have filed their written notes of arguments. The union along with its written notes of argument has referred to the following decisions:-

1. Maharashtra State Road Transport Corporation & Anrs. –vs- Casteribe Rajya Parivahan Karmachari Sanghatana, (2009) 8 SCC 556.
2. Ajaypal Singh –vs- Haryana Warehousing Corpn., (2015) 6 SCC 321.
3. Durgapur Casual Workers Union & Ors. –vs- Food Corporation of India & Ors. (2015) 5 SCC 786.
4. Umrala Gram Panchayat –vs- Secretary, Municipal Employees & Ors. (2015) 12 SCC 775,
5. Chennai Port Trust –vs- Chennai Port Trust Industrial Employees Canteen Workers Welfare Association & Ors. (2018) 8 SCC 202.
6. Oil and Natural Gas Corporation –vs- Krishna Gopal & Ors. (2020) SCC OnLine SC 150.
7. Award passed in Industrial Dispute No.91 of 2013 by Central Govt. Industrial Tribunal, Chennai.
8. Tamil Nadu State Transport –vs- Presiding Officer, Secretary, LAWS (MAD) 2010 6 234.

It is admitted fact that Smt. Gouri Routh was engaged by the bank either as a Casual Worker on daily wage basis or as a Part Time Sweeper sometime in the year 2010 at Howrah Branch and latter she was once again re-engaged sometime in 2013 as a Casual Worker after the union raised an industrial dispute before the Labour Commissioner challenging her alleged illegal termination by the bank. That on re-engagement as a casual she was posted at Dumurjola Branch, but later she was brought back to Howrah Branch.

M.W. Nos. 1 and 2 in their evidence recorded under oath have admitted that Gouri Routh is still working at Howrah Branch as a casual. M.W. No.2 has further stated that bank also deposit its proportionate contribution towards P.F. of Smt. Gouri Routh. Bank grants leave and P.F. benefits to casual workers as per bank's circular. That she was engaged as casual on 11-02-2010. Exhibit-W-10 dt. 13-06-2013 shows that Smt. Gouri Routh is working as a part time casual worker at Howrah Branch. So, admittedly Gouri Routh is working for the Bank as a casual daily wagger since 2010 and thereafter since 2013 till date.

It is also admitted fact that Paschim Banga Gramin Bank was formed on 26-02-2007, with the amalgamation of three Gramin Banks namely Howrah Gramin Bank, Bardhanman Gramin Bank and Mayurakshi Gramin Bank by virtue of Govt. Notification dated 26-02-2007 and established under the Regional Rural Banks Act, 1976. That on creation of a new bank after amalgamation in the year 2007, the bank in exigency and for smooth functioning of its business engaged part time casual workers and part time sweepers by issuing the two circulars dt. 11/20-09-2007.

That as per order of reference and specifically issue no.2, it appears the union has challenged one of the circulars i.e. Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007, which relates to engagement of casual workers in absence of regular messenger and which read as follows:-

“Consequent upon implementation of NIT award followed by directives from Govt. of India/ NABARD /Sponsored Bank from time to time, the subject benefit was prevailing in transferor RRB's. Based on the prevalent circulars/ guidelines; the following schemes has been finalised for implementation in the Paschim Banga Gramin Bank w.e.f. 26th February, 2007.

In order to overcome the exigency arising out of absence of regular messenger at the branch/office level, it has been decided that Branch Manager/ Officer-in-Charge may incur expenses towards payment of wages to the casual worker to be engaged purely on temporary basis for not more than three occasions in a calendar month and not more than 14 days at a stretch when the regular messenger is on leave or compelled to spend the full duty time outside branch/office or where there is no regular messenger. The rate and other modalities of such payment would be as follows:-

- i) Rate of wages would be Rs.138/- per day for CCA Centre and Rs.132/- per day for non-CCA centre.
- ii) Payment of such engagement would be made to the debit of working expenses miscellaneous account. Such payment should be made on weekly basis.
- iii) Same person should not be engaged for more than 60 days in a year.
- iv) Engagement of casual worker should be made to meet any exceptional need or circumstance and not as a routine matter.

It is reiterated that duties of such casual workers should preferably be limited to menial jobs as far as practicable and restricted in such a way so that the secrecy of the respective branches are not allowed to be divulged in any way”.

However, for proper determination of the issues under reference it is necessary to decide the other circular issued on the same day by the management i.e. Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007 with regard to engagement of part time sweepers/ casual workers –compensation in lieu of absence. The circular read as follows:-

“Consequent upon implementation of NIT award followed by directives from Govt. of India/ NABARD /Sponsored Bank from time to time, the subject benefit was prevailing in transferor RRB's. Based on the prevalent circulars/ guidelines; the following schemes has been finalised for implementation in the Paschim Banga Gramin Bank w.e.f. 26th February, 2007.

1. Part Time Sweeper on monthly consolidated wages/ scale wages and casual workers on daily wages basis with the benefits of provident fund facilities may be granted compensation at the rate of their daily wages in lieu of their absence for the reasons beyond the control for maximum 30 days in a calendar year against submission of “Request Letter” (proforma enclosed) by the concerned person.
2. Normally, maximum two days absence may be compensated at one time and holidays and Sundays may not be combined with such absence in such a manner as to increase the absence at any one time beyond four days. Under exceptional circumstances, the branches /offices may, however, allow absence for a longer period keeping within the maximum permissible limit.
3. No person will be entitled to such compensation until he/she completes one year of engagement.
4. A record of duty hours /attendance of such persons in a separate board –bound register and making suitable note of their duly granted the compensation is required to be maintained properly by the branches /offices for future requirement, if any.
5. Power to sanction of above mentioned compensation to such persons shall vest with the respective wage sanctioning authorities.
6. Such compensation shall be allowed only to the persons who remains absent but in no case monthly wages to such person should exceed the eligible amount. In other words, there should not be any wage-cut for the actions as envisaged under two above.

It is also required to be made abundantly clear that this benefit is extended by the bank as a very special case and will not mean, imply or devolve any rights, claims etc. in any manner whatsoever upon and /or from such categories of such casual workers (temporary) for absorption and/or engagement/ appointment on permanent basis in the bank. Again the bank's right to discontinue and /or to dispense with such facilities at any time should be reserved, if deemed appropriate and necessary”.

Therefore, on reading the above two circulars issued on the same day by the management of the Bank, it appears when Paschim Banga Gramin Bank, which was formed after amalgamation of three different banks in the month of February, 2007, to overcome the immediate need of subordinate staff in the category of Office Attendant (Multipurpose) and Sweeper, in the absence of regular or permanent staff in those posts perhaps for want of regular recruitment as per recruitment rules has issued those circulars for engagement of part time sweeper on monthly consolidated wages /scale wages and casual workers on daily wage basis with the benefit of provident fund facility and also compensation at the rate of daily wages in lieu of their absence with maximum period of absence of 30 days in a year.

Further, to overcome the exigency arising out of absence of regular messenger, the management decided to engage casual workers purely on temporary basis for not more than three occasions in a calendar month and not more than 14 days at a stretch and no engagement of same person for more than 60 days in a year in order to maintain secrecy of the respective branches.

Therefore, let me see whether Smt. Gouri Routh has been engaged by the bank as a part time sweeper on monthly consolidated wages or a casual worker on daily wage basis with the benefit of provident fund facilities and compensation for remaining absence for 30 days in a calendar year under Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007 or she has been engaged as casual worker in absence of regular messenger under Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007?

Exhibit-W-18 (collectively) statement of wages of Smt. Gouri Routh prima facie show that Smt. Gouri Routh, a part time sweeper was paid Rs.1,190/- per month for sweeping the floor area measuring 1600 sq.ft. for working five days in the month of January, February, March, May and June, 2015 and from her such total wages of Rs.1,190/- P.F of Rs.143/- was deducted. Rs.5/- was deducted towards subscription to Paschim Banga Gramin Bank Employees Association under "Check-off" system and Rs.2/- towards subscription to SC/ST. Such facility is provided only to the part time sweepers and casual workers engaged under Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007.

Those wage statements further shows she was paid Rs.238/- per day towards wages. Exhibit-W-3 shows that there was revision of daily wage of casual worker w.e.f. 20-02-2010 and same was revised from Rs.179/- to Rs.238/- for CCA Centre and from Rs.171/- to Rs.230/- for non-CCA Centre. Thus, above wage statements prove that Smt. Gouri Routh is engaged as a part time sweeper by the bank and not a part time casual worker as shown in Exhibit-W-10.

On the other hand Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007 relates to engagement of casual as leave substitute in place of absence of regular messenger from the branch and office either on leave or on duty out of station purely on temporary basis. Such circular does not speak of benefit of provident fund facility being extended to those casual engaged as leave substitute or entitlement of compensation for 30 days leave in a year.

It is very interesting to note that Exb. W-18 collectively prima facie shows that Smt. Gouri Routh was paid for working as a part time sweeper not as a casual worker. Thus, in view of Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007 she is supposed to be engaged on monthly consolidated wages and not on daily wage basis. The above wage statements further prove she was not engaged as a leave substitute casual worker purely on temporary basis in absence of regular messenger under Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007.

Therefore, prima facie it appears that the bank has adopted unfair labour practice by implementing both the above mentioned Circulars dt. 11/20-09-2007 in case of Smt. Gouri Routh. First, engaging her as a part time sweeper with P.F. benefit as provided in Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007 thereby denying her the job of a whole time sweeper. Secondly, it appears from Exhibit-W-18 (collectively) she was engaged only for five days in a month by invoking Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007 and which clearly provides that no leave substitute casual worker can be engaged for more than three occasions in a month and not more than 14 days at a stretch or no person should be engaged for more than 60 days in a calendar year.

But the fact remains that Smt. Gouri Routh has been working for Paschim Banga Gramin Bank, Howrah Branch after her re-engagement in the year 2013 till date and such very fact proves that she is not engaged as casual worker purely on temporary basis as a leave substitute in absence of regular messenger, rather she is engaged by bank as a part time sweeper. Therefore, Smt. Gouri Routh is entitled to get all the benefits mentioned in Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007 relating to engagement of part time sweeper on monthly consolidated wages. The bank is bound to engage her as a Part Time Sweeper on monthly consolidated wages/ scale wages with compensation for 30 days leave in a calendar year. Further, she having worked for more than 60 days in a calendar year and has drawn wages less than Rs.10,000/- per month is entitled to get bonus as per provisions of Bonus Act, and cannot treat her to be a casual worker engaged under Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007

In view of the above this Tribunal holds the management of Paschim Banga Gramin Bank has indulged in unfair labour practice by implementing certain provisions of two different circulars having nos. PBGB/HO / PAD /

CR/102/2007-2008 dt.11/20-09-2007 and PBGB/HO/ PAD/CR/103/2007-2008 dt.11/20-09-2007, to suit them and which are otherwise applicable to three different classes of casual workmen of the bank i.e. (a) part time sweepers on monthly consolidated wages with benefit of provident fund facility and compensation for 30 days leave in a year (b) casual workers on daily wage basis with benefit of provident fund facility and compensation for 30 days leave in a year and (c) casual workers engaged purely on temporary basis for 14 days in a month or 60 days in a calendar year, in absence of regular messenger on leave or on duty out of office and branches and to deprive Smt. Gouri Routh, a part time sweeper, the actual benefit to which she is otherwise entitled under Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007.

It is seen from the Circular no. PBGB/HO/PAD/CR/102/2007-2008 dt. 11/20-09-2007, that it covers engagement of casual workers on daily wage basis with P.F. benefits and compensation for 30 days leave in respect of branch having no regular messenger also.

However, this Tribunal does not find any illegality in issuing Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007, whereby the management of the bank decided to engage casual workers in absence of regular messenger purely on temporary basis for not more than three occasions in a calendar month and not more than 14 days at a stretch in a month when the regular messenger is on leave or on duty outside the branch and office and same person should not be engaged for more than 60 days in a year to maintain the secrecy of the branch.

It is settled principle of law any administrative circular order can be challenged only on the ground it contravenes a law or it suffers of vice of illegality, irrationality or procedural impropriety. Prima facie it appears by issuing the disputed administrative Circular no. PBGB/HO/PAD/CR/103/2007-2008 dt. 11/20-09-2007 the bank has restricted the engagement of casual workers in absence of regular messenger at its establishment for a maximum 14 days in a month or 60 days in a year. This Tribunal does not find any illegality in such circular and it is the prerogative right of the bank to engage or not to engage casual worker on the basis of its need. The bank is the best judge to assess its need for casual workers in absence of its regular messenger.

This Tribunal cannot interfere with the internal policy of the bank and therefore this Tribunal cannot declared the action of the management of Paschim Banga Gramin Bank, restraining the engagement of casual workers in absence of regular messenger for maximum 14 days in a month or 60 days in a year to be illegal. Such circular does not appear to be an unfair labour practice on the part of the management of the bank. Accordingly, the Issue No.2 under reference is answered.

Here, I like to make it clear the issues under reference do not speak about demand for absorption and regularisation of Smt. Gouri Routh. Therefore, I am not inclined to discuss such issue though raised by the union for her absorption in permanent post and also defence taken by the management of bank that she is not entitled to regularisation as bank has already sourced out the job of subordinate staff or it has surplus subordinate staff or that Smt. Gouri Routh without undergoing through recruitment process cannot claim absorption against a regular vacant post.

More so, Exhibit-W-18 (collectively) prima facie shows the subscription of the union is deducted from the wages of Smt. Gouri Routh by the bank under 'check off' system, so the plea taken by the bank the union of permanent staff of the bank cannot raise an industrial dispute in respect of a casual workman is not sustainable.

Further, this Tribunal finds no relevancy of the documents exhibited by the management for the determination of the issues under reference as all those documents relate to recruitment of Civic Volunteers and Village Police by the Govt. of West Bengal.

Gone through the decisions cited by the union. The facts and circumstances of the present case being entirely different from those cited decisions the Tribunal is not inclined to discuss the cases referred above for deciding the present case. More so, it is settled law each case has to be decided on its own merit as facts and circumstances of each case differs from others and Court should not place reliance on decisions without discussing as to how fact situation of case before it fits in with fact situation of decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. They must be read in context in which they appear to have been stated. Disposal of case by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases. Precedent should be followed only so far as it marks the path of justice.

In view of the above the Reference Case no. 83 of 2014 is allowed. The management of Paschim Banga Gramin Bank is directed to extend all benefits to Smt. Gouri Routh, as provided in Circular no. PBGB/HO/PAD / CR / 102 /2007-2008 dt.11/20-09-2007 i.e. to a part time sweeper on monthly consolidated wages with bonus facility and compensation for 30 days leave in a year with the benefit of provident fund facility to her which it has already extended to her. Accordingly, an award is passed to that effect.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 26 जून, 2024

का.आ. 1288.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.डी.डब्ल्यू.पी. के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (08/2023) प्रकाशित करती है।

[सं. एल -12025/01/2024 आई.आर.(बी-1)-175]

सलोनी, उप निदेशक

New Delhi, the 26th June, 2024

S.O. 1288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.08/2023) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of C.P.W.D and their workmen

[No. L-12025/01/2024- IR(B-I)-175]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

CGIT-08 OF 2023

Smt. Arpita Sengupta **Applicant/Employee**

Versus

C.P.W.D. & Ors. ... **Opp. Parties**

Appearance :

On behalf of the Appellant : **None**

On behalf of Opp. Party CPWD: **Sri Bikramjit Bhattacharya,**

Ld. Advocate

On behalf of Opp. Party, M/s. Shiborty Maintenance: **None.**

Date: 28th February, 2024.

A W A R D.

Mr. Bikramjit Bhattacharya, Ld. Advocate for C.P.W.D. appears. None appears from the side of the workman as well as on behalf of the Contractor Employer when the matter is called.

Neither the union nor the workman files show cause as called for.

Therefore, a presumption can be drawn that the workman or the union which has espoused the present dispute, challenging the termination of the service of Smt. Arpita Sengupta, Data Entry Operator, an employee of the contractor, w.e.f. 31-05-2023 is no more interested to pursue with the present disputed u/s 2A of the Industrial Disputes Act.

In view of the above 'No Dispute Award' is passed.

Accordingly, CGIT-08 of 2023 u/s 2A of the Industrial Disputes Act is disposed of.

Justice K. D. BHUTIA, Presiding Officer