

**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM –
LABOUR COURT NO. II, NEW DELHI**

I.D. No. 100/2019

Sh. AkhileshVs. Bank of Baroda

Sh. Akhilesh, S/o Sh. Lekh Raj Singh,

Address:- House No. 19, D-Block, Bank Colony,
Mandoli, New Delhi- 110093.

...Applicant/Claimant

Versus

The General Manager,

Bank of Baroda, Ajmal Khan Road, Block-15-A,
WEA, Karol Bagh, New Delhi-110005,
Also At:- Baroda Bhawan, RC Dutt Road,
Alkapuri, Baroda-390007.

...Management/respondent

Counsels:

For Applicant/ Claimant:

Sh. DushyantChaudhary, Ld. AR.

For Management/ Respondent:

Sh. Karan Singh and Sh. AmitTalwar, Ld. ARs.

Award

19.06.2025

The present application has been filed under section 2-A of Industrial Disputes Act, 1947 (**Hereinafter referred as 'the act'**). The claimant claims to have worked with the management as a class-IV employee since 01.06.2010. He submits that no identity card was issued to him and His last drawn salary was Rs. 7,000/- per month, his services were not regularized as per the rules and regulations of the Minimum Wages Act, despite rendering duty for 12 hours a day. The claimant further submits that he was working with the management as a peon/Daftari/attendant/clerk and sometimes he worked as per the

instructions of the bank staff. He states that his salary for September 2018 was also withheld. Despite multiple requests for regularization of his services, the management terminated his service on 25.09.2018 without assigning any reason. He claims that action of the management in terminating his services is totally arbitrary, illegal and reflects anti-labour attitude. The claimant further submits that he has remained unemployed since his termination despite his best efforts. Lastly, he made prayer that he be reinstated with continuity of service, regularization and full back wages.

In response, the management appeared and filed its written statement raising several preliminary objections. It was submitted that the management of Bank of Baroda is a public sector bank incorporated under the provisions of banking companies (Acquisition and Transfer of Undertaking Act, 1970) and is bound by the government guidelines and directives regarding recruitment. It is further submitted that the claimant was never employed by the bank, and had instead been working under a photo copier vendor **M/s NDJ REPROGRAPHICS**, as a staff/operator of the machine installed at Karol Bagh Branch (SMS), and therefore, no employer-employee relationship existed between the parties. The management further submitted that the documents and vouchers produced by the claimants were mischievously obtained with the intention to file his false claim, the claim is without any cause of action as there was no proximity of contract between the claimant and the management at any point of time. On merit, it reiterated that the claimant was never employed by the bank and could not seek regularization. Lastly, the management prayed that claim of the claimant be dismissed.

Rejoinder had been filed by the claimant where he denied the averment made by the management in its written statement and affirmed the averments in his claim statement.

After completion of pleadings, following issues were framed for adjudication on 06.01.2020:

- I. Whether the proceeding is maintainable.
- II. Whether there exists any relationship as employer and employee between the management and the workman.

- III. Whether the service of the workman was terminated illegally without complying the procedure of law.
- IV. Whether the workman is entitled to the relief sought in the claim petition.

In order to prove his claim, the claimant examined himself as WW1. He reiterated the contents of his claim and deposed that he continuously worked for the management since 06.06.2010, and that the payments made to him through vouchers and cheques (Ex. WW1/1 to WW1/3 and marked documents as Mark A (Colly) i.e. from 1 to 244 pages) established his engagement with the management. In his cross-examination, he admitted that:

- His date of birth was 05.05.1985.
- He studied up to class 8th.
- No application for employment was ever submitted by him to the management.
- He was not issued any appointment letter by the management.
- He got the employment in the bank through a friend of his father, who was also working in the same bank.
- He was paid remuneration through vouchers and cheques.
- The vouchers were prepared by a bank employee named Mr. George.
- The bank had a photocopier machine operated by him and other bank employees.
- The owner of the photocopier machine was Mr. Joshi.
- No person was exclusively appointed as the operator of the photocopier machine.
- He denied that his remuneration was paid through the owner of the photocopier machine, who was allegedly being paid by the bank for both the machine and its operator.
- He denied being an employee of NDJ Reprographics Agency.

In rebuttal, the management examined one Sh. Nawal Kishore as MW1 who reiterated the averments made in the written statement. He relied upon several documents i.e. a letter dated 17.03.2018 written by proprietor of NDJ Reprographics requesting to increase price of photocopier machine (Ex. MW1/1), an invoice no. 04 dated 01.05.2018 for a bill of 14,641/- issued by NDJ Reprographics (Ex. MW1/2), and

cheque no. 001513xx dated 09.05.2018 (Ex. MW1/3). The witness was cross-examined where he admitted that:

- He joined the bank in the clerical cadre on 06.03.1999.
- He was promoted to: Scale-1 Officer in 2006, Scale-2 Officer in 2011, Scale-3 Officer in 2014 and Scale-4 Officer in 2022.
- As per bank rules, a Branch Manager can engage a laborer for cleaning purposes when needed, and such expenses are debited as labour charges through vouchers.
- He had no personal knowledge of the present case.
- As per bank rules, a Branch Manager can engage a laborer for cleaning purposes when needed, and the expenses are debited as labour charges through vouchers.
- He had no personal knowledge of the present case.
- Admitted that documents marked 'A' (pages: 14, 15, 17, 19, 20, 21, 22–29, 31, 32, 34–41, 43, 44, 45, 47, 51, 52, 58, 59–70, 75, 76, 79–90, 91, 93–97, 99–103) belonged to his branch, and payments were made to Sh. Akhilesh.
- Documents on pages 72, 77, 92, and 98 also belonged to his branch; payments were made under miscellaneous expenses, such as, Staff meeting expenses, Purchase of green mats, Refreshments for customer meetings and Tissue paper purchases.
- Documents marked pages 104–116, 117–121, 123–125, 127–129, 131–133, 149, 150, 152–154, 158, 159, 206, 207 & 208 were related to the Karol Bagh Branch (Delhi).
- However, he had only verified the cheques related to these documents.
- Payments through those cheques were made to Sh. Akhilesh.
- Documents marked 116, 122, 126, 130, 134, 135–141, 155–157, 160–202, 203, 209–219, 216, 222–225, and 232–240 were not related to the Karol Bagh Branch.
- These documents pertained to RLF DMR-2, located on the second floor of the Karol Bagh premises, and Parliament Street Branch of the bank.
- He was unable to verify these documents, as they were outside the scope of his branch.
- Denied that he had intentionally avoided verifying documents to frustrate the claimant's case.

- Denied that the Branch Manager had ever received any documents identifying the claimant as a temporary or casual labourer.

The claimant argued that he was employed with the management, and for proving this, he examined himself and exhibited various documents i.e. payment vouchers and payment cheques (Mark-A) (244 Pagescolly). He further submitted that the management also admitted the documents Mark-A consisting 244 pages, belong to one of their branches, and payment of those vouchers were made to the claimant. He submits that by evidence, he has proved that he was an employee of. He submits that arguments of the management that no appointment letter was issued to him, and he didn't participate in any recruitment process, cannot defeat his claim in view of the preponderance of the evidence that has been produced by him by way of documentary evidence.

The AR for the management argued that the management is a public sector bank incorporated under the provisions of Banking Companies (Acquisition and Transfer of undertaking) Act, 1970 and is bound by the Government guidelines and directives. It was further argued that the claimant was attached to one of the vendors **M/s NDJ Reprographics**, and not to the bank. The management pointed out that the claimant had admitted in his cross-examination, that no appointment letter was ever issued to him. As for the vouchers and other documents produced by the claimant in support of his claim, the management argued that these documents relied upon were obtained illegally from the bank and cannot be relied upon.

The management further relied on the judgment Of Hon'ble Supreme Court of India dated 10.04.2006 in **State of Karnataka vs. Uma Devi and Ors., Civil Appeal Nos. 3595-3612 of 1999**, wherein back door entry into public employment was specifically barred. The management also referred to a circular issued by Ministry of Finance regarding recruitment policy in public sector banks.

I have heard the arguments advanced by both parties, perused the record and analyzed the evidence. The claimant's entire claim rests substantially on the documentary evidence produced by him, consisting of vouchers and cheques allegedly issued in his name. Some of those

documents were admitted by the management's witness who stated that said payment was made through voucher and cheque in the name of the claimant. Some of the vouchers were not verified by him because they belonged to some other branch. It was also stated by the witness that the claimant in the cross-examination admitted that he was not issued any appointment letter and that he didn't participate in any official recruitment process.

The whole case of the management is that the claimant was never appointed by the bank, nor was any appointment letter issued, and that he was, in fact, an employee of the photocopy vendor **M/s NDJ Reprographics**. The management again relied upon the *Uma Devi judgment*. However, in this regard, it has to be considered that in a recent judgment delivered by the Hon'ble Supreme Court of India In the **case Shripal & Anr. v. Nagar Nigam, Ghaziabad (Civil Appeal No. 8157 of 2024)**, the court explicitly held that:

The principle of 'equal pay for equal work' cannot be disregarded when workers have performed perennial duties under the direct supervision of the employer... Uma Devi cannot be used as a shield to justify exploitative employment practices that persist for years without legitimate recruitment processes.

In the present claim, the claimant claims to have worked with the management for more than 8 years. No doubt, the issuance of the appointment letter and regular wages are important factors in determining an employee-employer relationship. However, the management engaged the claimant without issuing an appointment letter and without providing any legal benefits. The regular payment of vouchers reflects that the claimant was working directly for the management. The management's witness admitted several documents by which the salary payments were made directly to the claimant.

The question that now arises is that if the claimant was not an employee of the management, why were salary payments made directly to him? If he were employed by the vendor, his salary should have been paid through the vendor. It appears that there was some camouflage arrangement between the management and the vendor, under which the claimant was engaged, and the present plea of the management is a

cover. Otherwise, there would have been no reason for issuing the vouchers and payments directly to the claimant. The plea raised by the management that the documents and vouchers produced by the claimants were mischievously obtained with the intention to file his false claim is nothing but a face-saving tactic.

In view of above evidence and arguments, **issue no.-2** is adjudicated in favor of the claimant, and he is held to be an employee of the management. So far so **issue no.-3** is concerned, the management failed to comply with the provisions of section-25F of the Act because it didn't recognize the claimant as its employee. Therefore, the termination of the claimant is held to be illegal and Issue no.-3 is adjudicated in favor of the claimant.

As a general rule, when termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. However, much time has already passed and there is no positive evidence that the claimant was unemployed since his termination from service. It is held by the Hon'ble Supreme Court of India in the case titled as **Employers, Management of central P& D Inst. Ltd. Vs Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator. Similar views were expressed by Hon'ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt. Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219** wherein it was held by the court that even if the termination of a claimant is held illegal, the industrial adjudicator is not supposed to direct reinstatement along with full back wages and the relief can be moulded according to the facts and circumstances of each case and the court can allow compensation to the claimant instead of reinstatement with back wages. Same view has been expressed by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC** stating that upon dismissal, being set aside by a court of Law, reinstatement with full back wages is not an automatic relief. In some cases, lump sum compensation is a better relief.

Given these circumstances, a lump sum compensation of Rs. 3,00,000/- (Rupees Three Lakhs Only) is considered an appropriate relief. Hence, management-2 (*G-4S Facility Services Pvt. Ltd.*) is hereby directed to pay a compensation of Rs. 3,00,000/- (Rupees Three Lakhs Only) to the claimant within two months of notification of this award, failing which the management shall also pay interest @ 8% per annum on the aforesaid amount from the date of award till the date of realization. A copy of this award be sent to the appropriate government for notification U/S 17 of the I.D Act. The file is consigned to record room.

Dated

ATUL KUMAR GARG
Presiding Officer
CGIT – cum – Labour Court – II