

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

I.D. No.62/2021

Sh. Badri Dutt Joshi vs. Oriental Bank of Commerce

Sh. Badri Dutt Joshi,
R/o House No. 116-117, Ground Floor, Pocket-03,
Sector-25, Rohini, New Delhi-110085.

Versus

1. The Chairman/MD,
Oriental Bank of Commerce,
C.O. Plot No.05, Sector-32, Institutional Area,
Gurgaon, Haryana-122001.

...Applicant/Claimant

2. The AGM,
Oriental Bank of Commerce,
E-Block, Connaught Place, New Delhi-110001.

...Management/respondent

Counsels:

For workman/ Claimant:
Sh. Vijay Pal, Ld. AR.

For Management/ Respondent:
Sh. Rajat Arora and Sh. Niraj Kumar, Ld. ARs.

Award
23.06.2025

The Ministry of Labour and Employment had referred the following reference to this tribunal for adjudication:

- a. Whether the enquiry conducted by the management of Oriental Bank of commerce (Now Known as PNB) was vitiated with regard to Sh. Badri Dutt Joshi.***

- b. If yes, what relief these workers are entitled to?***
c. What other relief the said workman is entitled to?

Pursuant to the reference, notices were issued to both parties. The claimant appeared and filed his claim statement stating that he was temporarily appointed in the management bank as a personal driver and was attached with Mr. S.D. Malhotra (AGM) and Mr. Vikram Kochar (Chief Manager of Bank) from 02.07.1986 to 01.07.1990. Thereafter, as per rules of the Bank, he was regularized as a peon w.e.f. 02.07.1990 and confirmed in the services of the bank since 02.06.1991. He was promoted to clerical cadre vide office letter no. 452/97 dated 04.03.1997.

The claimant stated that he had never submitted any forged and purported documents pertaining to the bank, in regard with availment of loans from the co-operative societies and any other financial institutions, and no dues were outstanding against him. Nevertheless, the management discontinued his services without proving any misconduct. From 13.03.2003, he was reportedly suffering from various diseases and kept sending leave applications along with medical certificates to the management until 25.12.2003, and on 26.12.2003. After recovery, he visited the zonal office of the bank and requested resumption of his duty but was not allowed. He claimed that he remained unemployed since and sought reinstatement with full back wages and other consequential benefits.

The management filed a written statement raising a preliminary objection that present claim raised by the claimant doesn't fall within definition of Industrial Dispute in accordance to sub-section (3) read with subsection (2) and (1) of Section 2A of the Industrial Disputes Act, 1947 (**Hereinafter referred to as 'the Act'**); it was also submitted that the present claim is time-barred having been filed almost 18 years after the conclusion of the disciplinary action against him in 2003. It was further stated that the claimant's pleadings were contradictory and diametrically opposite to those made before the Conciliation Officer. In the present claim, it has been stated that the claimant was not aware of any departmental proceedings against him. It has been stated in Para 2 of the claim statement that his services had been discontinued without any misconduct even without serving any show cause, memos, charge sheet, dismissal or removal letter etc. However, it is evident from the claim

statement itself, as well as from the documents filed by the claimant before the Conciliation Officer, the claimant was indeed issued a charge-sheet dated 19.08.2002 by the management of Oriental Bank of Commerce for allegedly forging signatures of various Bank Officers to obtain loans from Cooperative Urban Society.

The claimant filed a rejoinder denying the management's averment in its written statement and reaffirming the averments made in his claim statement.

After completion of the pleadings, following issues had been framed vide order dated 04.07.2022:

- Whether the proceeding is maintainable.
- Whether the claim is barred by limitation.
- Whether the domestic inquiry conducted against the claimant was fair and in principles of natural justice were followed.
- To what relief the claimant is entitled.

It had been observed in order dated 04.07.2022 that issue no. 3 would be treated as a preliminary issue.

The management was called to lead evidence first. However, it failed to do so, citing that a long time had passed since the enquiry, during which, the records related to enquiry had been weeded out. Consequently, the issue of enquiry goes against the management and in favor of the claimant.

Another preliminary issue that had been framed is whether the claim petition is barred by limitation. The claimant had been allegedly terminated in 2003 and filed his claim in 2021 after a significant delay.

The claimant reiterated his initial service details, stating that he was temporarily appointed in the management bank as personal driver of the bank and attached with Mr. S.D. Malhotra, AGM, and Mr. Vikram Kochar, Chief Manager of the Bank w.e.f. 02.07.1996 to 01.07.1990 and thereafter as per rules of the bank, the claimant was regularized in the services of the bank as a peon since 02.07.1990, and he was confirmed in the services of the bank since 02.06.1991. His further succeeded in

promotion exam from sub-staff cadre to clerical cadre which was held on 17.11.1996.

His further case is that his colleagues started hatching conspiracy against him without any rhyme or reason when he was in a dire of loan due to acute financial crunch which resulted into issuance of charge-sheet dated 19.08.2002 by Sh. Harish Bhatia, the then AGM, by labeling false charges against him, which was duly replied. However, instead of considering his reply, the AGM decided to hold a departmental enquiry against him, knowing very well that he was suffering from multiple diseases, severe mental depression and financial crisis.

The claimant participated in the enquiry; however, the documents regarding the enquiry were not supplied to him, in spite of repeated requests made by his legal assistant. He submitted that the dismissal order was supplied to him only in the year 2019, mentioning therein his suspension issued by Sh. B.R. Tangri without any signature.

He relied upon the following documents:

- **Ex.WW-1/1:** Copy of appreciation letter dated 05.04.1990 issued by the management to the deponent.
- **Ex.WW-1/2 (Colly):** Copy of letter issued by the management to the deponent (date not specified).
- **Ex.WW-1/3:** Copy of letter dated 20.07.1994.
- **Ex.WW-1/4:** Copy of letter dated 04.07.1996.
- **Ex.WW-1/5:** Copy of letter dated 17.09.1997.
- **Ex.WW-1/6 (Colly):** Copy of letter dated 04.03.1997.
- **Ex.WW-1/7:** Copy of letter dated 12.02.1997.
- **Ex.WW-1/8:** Copy of letter dated 02.06.1999.
- **Ex.WW-1/9 (Colly – 31 Pages):** Copies of letters and medical certificates submitted by the deponent for medical leave.
- **Ex.WW-1/10 (Colly – 2 Pages):** Copy of complaint/charge sheet dated 19.08.2002.
- **Ex.WW-1/11:** Copy of dismissal order dated 22.10.2003.
- **Ex.WW-1/12:** Copy of notice/representation dated 09.10.2019 along with postal receipt dated 17.10.2019.

Surprisingly, the witness stated in his cross-examination that he had not received the dismissal letter in 2003. He claimed that he visited connaught place branch of the management bank in 2019, where he was given the charge sheet and termination letter. He further stated that he hadn't received charge-sheet earlier in 2002.

The management relied upon the judgment of the Hon'ble Supreme Court of India in **The Nedungadi Bank Ltd. vs. K.P. Madhavankutty and Ors., Civil Appeal no. 638 of 2000, (MANU/SC/0049/2000)**, where in Para-6, it was held:

Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about seven years of order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising industrial dispute was ex facie bad and Incompetent.

On the other hand, the claimant relied upon the judgment decided by the Hon'ble Supreme Court of India, in **Sapan Kumar Pandit vs. U.P. State Electricity Board & Others, appeal (civil) 4471 of 2001 AIR 2001 SUPREME COURT 2562**, decided on 24 July 2001, where it was held that delay in filing a case is justified when the dispute has remained alive, though not galvanized on account of other justified reasons.

The gist of the claimant's arguments is that he was not aware of his dismissal order in 2003 and he came to know about it only in 2019, when he visited the Connaught place branch, where he was given the charge-sheet as well as the order of dismissal. During the course of arguments, he was asked to produce the person who allegedly gave him these documents. However, he later expressed his inability to do so.

This tribunal fails to understand how an unknown person could have given the charge-sheet and dismissal order to him, without knowing the identity of the claimant. It is also an admitted fact that in 2002, the claimant himself had admitted that he had participated in the enquiry proceedings therein which had been arisen out of the charge-sheet issued to him, of which he had submitted a reply. How could he now escape the fact that he was not aware of the charge-sheet as well as the dismissal order? A long time has elapsed in between, and due to this delay, the enquiry file has been weeded out. Additionally, the erstwhile Oriental Bank of Commerce has now merged with the Punjab National Bank, which may also have been the reason for untracing of the relevant files.

Nevertheless, it has been proved that there has been excessive delay and laches on the part of the claimant in approaching the appropriate forum. While he alleges that some officials hatched conspiracy against him which resulted into enquiry and charge-sheet against him. However, he failed to provide any specific reason behind the conspiracy against him, nor has he indicated any enmity with his colleagues or something else.

In view of the above facts and evidence on record, it is held that the claim is barred by laches. The claim has been filed almost 18 years after his alleged dismissal. No record has been produced to demonstrate what steps the claimant took to re-join duties, if he was

genuinely unaware of his dismissal. It has also not been explained whether any suspension allowance was given to him, or it was stopped. Nothing related to this matter has been brought on record.

In light of the above findings, the reference is answered against the claimants and in favor of the management. Accordingly, the claim of the claimant stands dismissed. The claimant is not entitled to any relief. A copy of this award be sent to the appropriate government for notification under section 17 of the I.D Act. The case file is consigned to record room.

Dated 23.06.2025

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