

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM  
LABOUR COURT No. II, DELHI**

**Smt. MadhuGohar vs. Punjab National Bank**

**I.D. No. 39/2009**

**Smt. MadhuGohar, W/o Sh. ShyamLalGohar,  
C-2/417, Janta Flats, Hastal,  
New Delhi-110059.**

Versus

**The Branch Manager,  
Punjab National Bank,  
I.C.D. Tughlakabad,  
New Delhi.**

Counsels:

Ms. RituRastogi, Ld. AR for the claimant.

Sh. Niraj Kumar, Ld. AR for the management.

**Award**

**28.08.2025**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour and Employment, vide its Order No. **L-12012/92/2008-IR(B-II)** dated 17.06.2009 has been pleased to refer the following dispute between the employer, that is the Management of Punjab National Bank and their workman for adjudication by this Tribunal, in the following terms:

***“Whether the claims of the workman that (i) she has completed 240 days of services in a calendar year (ii) her services were terminated w.e.f. 23/10/2006 without following the procedure of Industrial Disputes Act, 1947 and (iii) she should be reinstated***

***by the management of Punjab National Bank are legal and justified? To what reliefs are the workman concerned entitled to?"***

In pursuance to the reference, the claimant had filed the claim statement. She claimed to be appointed as a Sweeper w.e.f. 30.01.2003 with the aforesaid Bank at a basic salary of Rs. 740/- per month, and her last drawn salary was Rs. 1050/- per month. On 23.10.2006, when she went to join her duty, the management refused to permit her to enter the premises and orally informed that her services had been terminated. She asserted that her termination was illegal, without due process, and without any charge-sheet or allegation against her. Hence, she filed the present claim with the prayer for reinstatement with full back wages.

The management filed its written statement raising a preliminary objection that the claimant was never appointed by the Bank through the regular process of employment and no appointment letter was ever issued to her. There was no employer-employee relationship, and the claimant could not be treated as a 'workman' under Section 2(s) of the I.D. Act, 1947. Relying upon the judgment in ***State of Karnataka vs. Uma Devi and Ors., Civil Appeal Nos. 3595-3612 of 1999***, the management stated that backdoor entries into public employment are specifically barred, and therefore, the claimant is not entitled to relief. On merits, it admitted that claimant was engaged on an ad-hoc basis in the absence of a regular sweeper. The arrangement came to an end on 23.10.2006 when a regular sweeper joined the branch. She was paid for only the work complete, and no further obligation existed. The management lastly prayed for dismissal of the present claim.

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

This Tribunal treated the terms of reference as issues:

- (i) whether the workman completed 240 days of service in a calendar year?
- (ii) whether her services were terminated w.e.f 23.10.2006 without following the procedure of Industrial Disputes Act, 1947.

In order to buttress her claim, the claimant herself has appeared in the witness box. She reiterated the averments made in the claim statement that she was appointed as a Sweeper w.e.f 30.01.2003 at the basic salary of Rs. 740/- per month and her last drawn salary was Rs. 1050/- per month. Her services were terminated on 23.10.2006.

She has relied upon the following documents:

- (i) Ex. WW1/1 is the copy of the order dated 17.06.2009.
- (ii) Ex. WW1/2 is the reference sent by the Ministry of Labour on 17.06.2009.
- (iii) Ex. WW1/3 is the School Leaving Certificate.
- (iv) Ex. WW1/4 to WW1/10 are the statements of Bank account showing the salary transferred.
- (v) Ex. WW1/11 is the letter dated 30.01.2007.
- (vi) Ex. WW1/12 is the copy of the notice dated 01.06.2007.
- (vii) Ex. WW1/13 is the postal receipts.
- (viii) Ex. WW1/14 is the courier receipt.

The claimant was put to the cross-examination wherein she admitted that she had joined the bank in the year 2003. Her mother in law was an employee of PNB as a Sweeper and she came to know about the vacancy through her. Her husband was also working in the same branch. She also admitted that no terms regarding salary or duty hours were discussed with her directly but were discussed with her husband.

In rebuttal, the management examined Sh. Kripa Narayan Singh, Chief Manager, Punjab National Bank. He deposed that the claimant was never appointed in the Bank as a Sweeper but was engaged on an ad-hoc basis on a leave/stop gap arrangement. He also relied on the

*Umadevi* judgment and discussed the procedure of appointment in his affidavit.

The witness was cross-examined where he deposed that:

- He admitted that he was never posted at the Tughlakabad branch of the bank.
- He acknowledged annexing an advertisement issued by the bank's management in 2021 for filling certain posts.
- He was unable to specify when any recruitment advertisement was issued prior to 2021.
- He had no information regarding the number of employees recruited between 1995 and 2021 through the employment exchange or any formal channel.
- He denied the claim that no recruitment took place between 1990 and 2020 via employment exchange, proper channel, or public advertisement.
- He denied that all sub-staff cadre appointments during that period were made on an ad-hoc basis.
- He could not confirm whether Shyama Devi, allegedly the claimant's mother-in-law, was a permanent bank employee currently receiving a pension.
- He could not confirm whether Sh. Shyam Lal Gohar, the claimant's deceased husband, was a temporary employee of the bank or that an award in ID No. 20/2009 was passed in his favor by the tribunal in March 2022.
- He could not verify whether the document marked 'Mark A' was a communication from the Tughlakabad branch to the regional office, listing the seniority and workdays of temporary workers, including the claimant's name.
- He stated that the bank has guidelines for appointing temporary and casual employees.

The entire case of the claimant revolves around the fact that she worked under the management from 30.01.2003 to 23.10.2006, and her services were terminated without assigning any reason. She asserts that she completed 240 days of service in a calendar year. She also

stated that between 2010 and 2020, vacancies in the bank for the class IV posts were filled on an ad-hoc basis. The management's witness produced only an advertisement from 2021 regarding filling of some posts similar to the claimant's duties. She further stated that the management's witness neither denied the document mark-A, nor did he produce it. Although the management was directed in 2018 to bring all the records regarding the claimant's services, it failed to produce the same, and therefore, an adverse inference should be drawn against the bank. It is also her case that the management admitted making payments to her through vouchers. Therefore, all necessary ingredients of her claim stand satisfied.

On the other hand, the management contended that the claimant was only engaged on ad-hoc basis in absence of a regular sweeper. Since, a regular sweeper was appointed w.e.f. 23.10.2006, her services were no longer required, and therefore, she is not entitled to any relief. It relied upon the judgments in **Range Forest Officer vs. S.T. Hadimani AIR 2002 SC 1147**, **Essen Deinki Vs. Rajiv AIR 2003 SC 38**, **Secretary, State of Karnataka vs. Umadevi (2006) 4 SCC 1**, asserting that the onus of proving the 240 working days is on the workman, which has not been discharged in the present case.

I have heard the arguments advanced by both parties, and have perused the records and evidence brought on record. The management's counsel placed reliance upon the judgment of **State of Karnataka vs. Umadevi (2006) 4 SCC 1** on 10.04.2006 wherein backdoor entry into public employment was specifically barred. However, this contention is not tenable because, firstly, the judgment had not been given in the context of Industrial Law. Secondly, 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.*

Coming to the issue no.-1 i.e., whether the claimant completed 240 days of service in a calendar year. To bring a case within the scope of Industrial law, the claimant must first prove that she has completed at least one year of continuous service. Otherwise, she is not entitled to any protection under the provisions of the industrial law. The management simply denied the liability by stating that the claimant failed to discharge the onus.

In this regard, it is also important to mention here that in 2017, an application was filed by the claimant under section 11(3) of the Act for production of certain documents, seeking production of the following documents:

- Original/Duplicate copy of the reminder-I no. RMSD/STF/II/ dated 14.02.2004 issued under the signatures of Chief Manager, Punjab National Bank, Regional Office (South Delhi), New Delhi, addressed to the incumbent incharge B.O. Tughlakabad, New Delhi, Reg. Seniority list of Temporary Sweepers, showing the name of ShyamLal and Madhu.
- Salary Register, Attendance Register and personal file of Smt. MadhuGohar for the period from 30.01.2003 to 23.10.2006.
- Record of letter dated 30.11.2006 of Punjab National Bank addressed to Amarjit Singh on the subject of Receipt of Abhyavedan from ShyamLal.

The said application was decided in favor of the claimant, and the management was directed to produce the requisite records. However, the management failed to do so. The claimant cross-examined the

management's witness about document Mark-A, which had been sought by the claimant earlier. It was a reminder issued by the then Chief Manager, to the incumbent in-charge, Tughlakabad, New Delhi regarding seniority list of the temporary sweepers. The name of the claimant appeared in that list, with a total of 304 working days up to 31.12.2003. The original document was never produced by the management, nor did the management's witness deny its existence.

Therefore, on the strength of this document, it can be said that up to 31.12.2003, the claimant performed duties for 304 days. As far as the subsequent years are concerned, this tribunal has no hesitation in holding that the claimant proved that she was in continuous service during the relevant period, because the relevant records were with the management, and it failed to produce them. As the claimant completed 304 working days up to 31.12.2003, and considering the claimant's nature of work as a sweeper being perennial in nature, it is held that she completed 240 days in a calendar year.

Industrial law doesn't recognize part-time sweepers or full-sweepers. It only recognizes whether a workman has worked for 240 days in a calendar year. In the present case, the claimant has already established that she worked for more than 240 days in a calendar year with the respondent.

The argument of the respondent that the claimant was never appointed through regular appointment holds no merit. Even if the appointment was made in violation of the law, it doesn't give any leverage to the management to deny the existence of employee-employer relationship. It is evident on record that she continuously worked for three years, therefore, the employee-employer relationship stands established. Further, the claimant was required to prove that her services were terminated in violation of section 25F of the Industrial Disputes Act, 1947. This requirement has also been fulfilled, as the management denied the existence of the employee-employer relationship, therefore, no question of compliance of section 25F of the arises.

In view of the above, it is clearly established that the claimant was engaged with the management for more than 240 days in a calendar year until her services were terminated in violation of section 25F of the Industrial Disputes Act, 1947. The aforesaid action on the part of the management is in violation of the principles of natural justice.

Now, the question that arises is what relief the claimant is entitled to. As a general rule, when termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. It has been held by the Hon'ble Supreme Court of India in the case titled as **Employers, Management of central P& D Inst. Ltd. vs. Union of India & Another, AIR 2005 Supreme Court 633** that it is not always mandatory to order reinstatement even after the termination is held illegal. Instead, compensation can be granted by the industrial adjudicator. Similar views were expressed by Hon'ble High Court of Delhi in the case titled as **Indian Hydraulic Industries Pvt. Ltd. Vs. Kishan Devi and Bhagwati Devi & Ors., ILR (2007) Delhi 219** wherein it was held by the court that even if the termination is found to be illegal, the relief of reinstatement with full back wages need not be granted automatically, and the relief may be moulded according to the facts and circumstances of each case, and the court can allow compensation to the claimant instead of reinstatement with back wages. The same principle has been reiterated by the Apex Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik 2025 Latest Caselaw 157 SC**, wherein it was observed that upon dismissal being aside by a court of Law, reinstatement with full back wages is not an automatic relief and in certain situations, lump sum compensation is a better relief.

Given these circumstances and the long litigation faced by the claimant, a lump sum compensation of Rs. 7,00,000/- (Rupees Seven Lakhs Only) is considered an appropriate relief in lieu of reinstatement. The management is hereby directed to pay the said amount 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 under section 17 of the I.D Act. The file is consigned to record room.

Dated 28.08.2025

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