

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,**  
**JABALPUR**

**NO. CGIT/LC/R/36/2019**

**Present: P.K.Srivastava**

**H.J.S..(Retd)**

**The General Secretary,  
Theka Mazdoor Sangh (BMS),  
Akashganga,  
Rain Basera, Supela,  
Bhilai, Distt(Chatisgarh)  
Durg (CG) - 490023**

**Workman**

**Versues**

- 1. The Managing Director,  
Indian Overseas Bank,  
Central Office, P.B. No. 763,  
Anna Salai Chennai(Tamilnadu) - 600002**
- 2. The Senior Regional Manager,  
Indian Overseas Bank, Regional Office,  
Raipur, Phase-II, Investment Building,  
Jeevan Bima Marg, Raipur (Chhattisgarh) - 492004**

**Management**

**.....(Leading Case...)**

**With NO. CGIT/LC/R/37/2023**

**Shri Bodhram Karsh,  
At- H.No. 389, Near Sahu Kirana Store,  
Kashi Nagar, Korba (CG)**

**Workman**

**Versues**

- 1. The Regional Manager,  
Indian Overseas Bank, Regional Office,  
Phase-II, LIC Investment Building,  
Jeevan Beema Mar Pandri, Raipur (CG) 492004**
- 2. The Branch Manager,  
Indian Overseas Bank, Plot No.04,  
Shree Sai Bhavan, Main Road,  
Kosabadi, Dist. Korba (CG)**

**Management**

**JUDGMENT**

(Passed on this 24<sup>th</sup> day of February, 2026)

**In case No. R/36/2019-**

As per letter dated 11/02/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-12011/87/2018 (IR/B-II) dt. 11/02/2019. The dispute under reference relates to:

*“(i) Whether the Applicants in the dispute (as per list appended in Annexure-A) who were & are engaged by the Indian Overseas Bank in their respective Branches as Individual contractors are workmen within the meaning of Section 2(s) of the I.D. Act, 1947 & if so whether the contract agreement so entered is a mere camouflage and a smoke screen?”*

*“(ii) Whether, the Applicants claim for permanent absorption is justified? If yes, what relief the applicants are entitled to?”*

**In case No. R/37/2023 –**

As per letter dated 24/26.04.2023 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. RP-7(1-1)/2023-ES.III dt. 24/26.04.2023. The dispute under reference relates to:

*“Whether the Action on the part of the Management of Indian Overseas Bank, Raipur (CG) in Terminating the services of Shri Bodhram Karsh during the pendency of proceedings before the CGIT Jabalpur is Legal and Justified ? If not, to what relief Shri Bodhram Karsh is entitled to ?”*

*Since nature of dispute in the Case R/37/2023 is covered in the case R/36/2019, hence this case has been consolidated with R/36/2019 vide order of this Tribunal. R/36/2019 is a leading case. Both the cases are being disposed by a common Award.*

**Case of the Workman Union** is mainly that, the Theka Mazdoor Sangh is the Registered Union which is affiliated to Bharitya Mazdoor Sangh, its Registration No. is 413. The Applicant is its General Secretary and has been authorized by the Claimants, who are the members of the Union, as

well by the Union to prosecute this case. The 32 workers whose names are enclosed with the list of reference, were initially engaged by Bank on the post of Messenger/Peon on the different Branches at Raipur and Durg Division against vacant and permanent posts after interview as full time Peon/Messengers/ Cleaners but were not paid wages admissible to temporary employees or on Collector rate declared by the Government in Bank by Central Government, though they worked for the full day. They are 'workman' under Section 2(s) and the Management Bank is an 'Industry' under Section 2(j) of the Act.

That as per the reference, schedule list Annexed as Annexure-'A' of the all 32 employees, the workmen no.1 Subhash Chandra Sahu S/o,3162.The workmen no. 19, Omprakash Nirmalkar S/o Shankar Lal Nirmalkar appointed on 29. 03.2013 and posted in Utai Branch, Branch code no. 2325. The workmen no. 20, Nannuram S/o Rajram appointed in August 2013 and posted in Kawardha Branch, Branch code no. 3121. The workmen no. 21, Ishwar Vashtrakar S/o Horelal appointed on 10.10.2013 and posted in Bilashpur Branch, Branch code no. 1584. The workmen no. 22, Deepchandra Satnami S/o Dudhitram Satnami appointed on 28.10.2013 and posted in Bemetara Branch, Branch code no. 3092. The workmen no. 23, Bhushan Sahu S/o Keshav Sahu appointed on 30.10.2013 and posted in Bagbahra Branch, Branch code no. 3387. The workmen n0. 24, Rajkumar S/o Malikram appointed on 30.10.2013 and posted in Kapan Branch, Branch code no. 3239. The workmen no.25, Ramsharan Shukla S/o Pilupratap Shukla appointed in October, 2013 and posted in Hiri Branch, Branch code no. 3227. The workmen no. 26, Omprakash Sahu S/o Ishwari Lal Sahu appointed on 12.11.2013 and posted in D.D. Nagar Branch, Branch code no.3237. The workmen no. 27, Chandrakant Sahu S/o Manharan Lal Sahu appointed on 23.01. 2014 and posted in Rajeem Branch, Branch code no. 3357. The workmen no. 28, Vinod Yadav S/o Pannalal Yadav appointed on 01. 03.2014 and posted in Tatibandh Branch, Branch code no. 3479. The workmen no. 29, Ashok s/o Nanloo appointed in May 2014 and posted in

Bhilai Durg Supela Branch, Branch code no. 3651. The workmen no. 30, Naresh Kumar Sahu appointed on 01.07.2014 and posted in Bhoring Branch, Branch code no. 3388. The workmen no. 31, Motilal Matsyapal S/o Bhoowanlal Matsyapal appointed on 01.10.2014 and posted in Shakansh Branch, Branch code no. 3337. The workmen no. 32, Suresh Kumar Sahu S/o Somnath Sahu appointed on 21.06.2017 and posted in Keshala Branch, Branch code no. 2971.

**The** workmen no. 01, 15 and 19 are terminated by the management during conciliation proceeding because they are active members of the union and rest of all workmen are continuing in service with the management/second party in their different branches. It is further, alleged that the management is taking work continuously as a messenger/peon from the all workmen and uses their power an agreement for the cleaning and housekeeping work done with the workmen and paying wages only work of cleaning and housekeeping work as per agreement. The management is giving wages of messenger/peon as per daily rate which is colorable exercise of the power and only to avoid the provisions of labour laws and liability of regularization and pay-scale and also provident fund they have forcefully done the agreement for cleaning and housekeeping work with the workmen and continue in service from many years from the initial date of appointment in the bank. The work taken by the management bank is perennial in nature which has also same work done by the regular and permanent employees of the management bank but management paid wages as per agreement to the some workmen and daily wage to the some workman which is unfair labour practice adopted by the management with the all workmen.

**It is also the case** of the Union that, these workmen continuously worked for full day with the Management Bank and thus acquired status of permanent employees but were not granted benefits admissible to permanent employees. There is circular of Management dated 23.03.2011 applicable to all the Branches and Regions which provides that absorption of

Messengers/Sweepers on permanent posts who are engaged in the Branches/Offices of the Bank subject to their confirming to recruitment norms. As per circular of the management workmen are entitled to be absorbed on permanent post after completing 240 days continuously in a calendar year and all workmen continuously working with the management from the date of his initial appointment in the bank and already completed 240 days in every calendar year but the management did not absorb the workmen on permanent post and not giving benefit of pay-scale and using power forcefully made agreement with the workers for cleaning and sweeping work as per agreement rate of per square fit area of the bank building but they are taking work with the workers on full time basis from the opening of the bank to close the bank and paying wages only for cleaning and housekeeping work and want to show that workmen are contractual employee.

**Since**, these workmen though shown to be working as Contract worker on contract of cleaning granted to them by the Bank have worked on full times basis and continuously with the Bank. They have discharged all the duties discharged by the permanent employees working as Peons/Cleaners. Their nature of work is also of permanent and perennial in nature, thus the Management Bank has adopted unfair labour practice by way of showing them work contractors which is sham, bogus and camouflage adopted by Bank just to deny their rights with respect to permanent status and regularization. This action of Management is unjust, illegal and arbitrary. The Union has prayed that holding this action of Management Bank showing the workmen as work contractors as a camouflage and a smoke screen as well sham transaction, they be held entitled to be granted status of full time permanent employee.

**Case of Management Bank** is mainly that, there was a settlement between the Bank Unions and Management of the Bank and Circular dated

23.03.2011 was issued by Bank as a one-time measure for absorption of casuals/temporary Messenger/sweepers working with the Bank.

**That, it is specifically** mentioned in the aforesaid Circular that the absorption of causal/temporary messenger/sweepers shall be in a phased manner. The circular is applicable for causal/temporary messenger/sweepers those who have worked in permanent vacancies. The absorption of casual or temporary messengers/sweepers, those who have been worked in permanent vacancies were divided into three phases, **Firstly**, the causal temporary messengers/ sweepers who have worked for more than 10 years in any of the branches/offices in permanent vacancies and completed 240 days or more than days continuously in a calendar year as on 15.11.2010 and are still working shall be absorbed in Phase- I before 30.06.2011, subject to their completing/submitting the required information/certificates. **Secondly**, causal or temporary messengers/ sweepers who have worked for more than 3 years but less than 5 years in any of the branches/offices in permanent vacancies and completed 240 days or more days continuously in a calendar year as on 15.11.2010 and are still working shall be absorbed in Phase-II, once the absorption under Phase-I is completed, subject to their submitting the required information/certificates and **Thirdly**, causal temporary messengers/sweepers who have completed 240 days or more days continuously in a calendar year and have been engaged by branches/offices in permanent vacancies for less than 3 years as on 15.11.2010 and are still working shall be absorbed in Phase-II, once the absorption under Phase-II is completed, subject to their submitting the required information/certificates. It is noteworthy that the causal or temporary messengers/sweepers who are covered under the settlement and Circular for absorption were required to submit undertaking as per Annexure A-I attached to the Circular dated 23.03.2011.

That, it is provided in the Circular dated 23.03.2011 that any conditional undertaking or undertaking in any other format and or refusal to

the order of placemen/deployment shall be deemed as refusal to absorption of such concern causal temporary person and in such an event their claim for absorption shall not be considered thereafter, Moreover, causal or temporary messengers/ sweepers who are absorbed in Bank service shall be liable to be terminated if it is found at any time that he/she has made a false declaration in the undertaking letter with regard to number of days they have been engaged or he/she submitted a false fake documents service for joining the Non-Applicant/Bank.

That, the circular further provides that the future vacancies of sweeper vacancies arise on or after 15.11.2010 will be outsourced. Hence, there is no permanent vacancies of sweeper post in the Non-applicant Bank. The settlement arrived between the General Secretary of Indian Overseas Bank Union and the management of the Indian Overseas Bank, Chennai on 17.02.2011, is not applicable to persons if any engaged on causal or temporary basis after 15.11.2010 or who has not completed 240 days in a calendar year as on 15.11.2010. The said condition indicates that a cut-off date was provided in the memorandum of settlement dated 17.02.2011 itself and thus, the benefit of this circular cannot be given to such workmen who were engaged on causal or temporary basis after 15.11.2010. The candidates were also required to complete 240 days in a Calendar year subject to requested qualification before cut of dated i.e 15.11.2010 to make them eligible for absorption. In the present matter, all the candidates provided service as freelancer after the cut-off provided in the memorandum of settlement dated 17.02.2011 as well as circular dated 23.03.2011. Therefore, the applicants did not come within the ambit of the circular dated 23.03.2011 and no benefit of the circular dated 23.03.2011 can be given to the Applicant/Union to get absorption in the Non-Applicant/Bank.

That, the applicants at Serial No. 1, 15, 21 and 32 of list annexed as Annexure A-1, were not appointed on the basis of contract, the Non-Applicant Bank never entered into the contract with the workman at serial 1, 15, 21 and

32. Thus, the question of termination of their services does not arise. Thus, the assertion of the Applicant/Union is without substance and is hereby denied.

That, the other candidates of applicant have entered into a contract with Non-Applicant Bank on different dates, the details of which are given in below mentioned table. From bare perusal of the aforesaid contract would reveal that the candidates of the applicant were not required to provide service entire day in the branches of Non-Applicant Bank. It is specifically mentioned in the contract that the candidates of the applicant are free to carry out any other work as per their own wishes after their work in branches is completed. The clause 6 of the agreement is quoted below for kind perusal of this Hon'ble Tribunal.

While the second party is free to carry on any trade or occupation, on his/her own, he/she should make himself/herself should complete the sweeping work in the branch before the branch hours.

That, as per the agreement the candidates of the applicant were entitled to receive Rs.3/-per sgft in rural areas and Rs. 21-per sgft in urban areas for cleaning the branch. It is pertinent to note that all the candidates of the applicant who have executed the agreement have adhered to the terms and conditions of the agreement. Thus, the same is binding on the candidates, the candidates on the later stage cannot question the nature of service rendered by them, as they were fully aware about the nature of work, which they were required to do in the branches of Non-Applicant Bank.

That, the details of agreement, the date of doing freelancer and other details of applicants referred are shown in the table below:-

<b>Sr. No.</b>	<b>Name</b>	<b>Branch</b>	<b>Agreement/Sanction</b>	<b>Present Status</b>
<b>1.</b>	Shubash Chandra Sahu	Bhilai Nagar	No contract agreement was entered with the candidate.	No agreement.

2.	Bodhram Karsh	Korba	19.12.2015 to 18.02.2017 01.12.2018 to 30.11.2020 01.12.2020 to 30.11.2022	Presently Providing Service
3.	Sundar Lal Srivas	Pandri	01.08.2012 to 31.07.2014 01.08.2014 to 31.07.2016 01.08.2016 to 31.07.2018 01.08.2018 to 31.07.2020 01.08.2020 to 31.07.2022	Presently Providing Service
4	Santosh Kumar Yadav	Tilda	01.04.2013 to 31.03.2015 01.05.2016 to 30.04.2018 01.10.2018 to 30.09.2020 01.10.2022 to 30.09.2022	Presently providing service
5	Dharmendra Kumar Nisad	Raigarh	27.07.2012 to 26.07.2014 17.02.2014 to 16.02.2016 17.02.2016 to 16.02.2018	Not providing service
6	Girish Kumar Sharma	Balod	17.08.2012 to 1.08.2014 01.01.2014 to 01.01.2016 01.01.2016 to 31.12.2018	Voluntarily terminated contract on 21.06.2018
7	Kishore Kumar Chauhan	Taraod	01.12.2014 to 30.11.2016 01.12.2016 to 30.11.2018 01.12.2018 to 30.11.2020 01.12.2020 to 30.11.2022	Presently providing service
8	Munnalal Yadav	Baikunthpur	01.06.2014 to 31.05.2016 01.06.2016 to 31.05.2018 01.06.2018 to 31.05.2020 01.06.2020 to 31.05.2022	Voluntarily terminated contract on 20.01.2021
9	Bhupendra Kumar Kosariya	Amdi	01.06.2014 to 31.05.2016 01.06.2016 to 31.05.2018 01.09.2018 to 31.08.2020	Presently providing

			01.08.2021 to 31.07.2023	service
10	Yogesh Kumar Shrivastava	Kharsiya	01.07.2018 to 30.06.2020 01.07.2020 to 30.06.2022	Presently providing service
11	Sushil Kumar Bek	Pachpedinaka	01.07.2015 to 06.10.2017 01.10.2017 to 31.10.2019 01.10.2019 to 30.09.2021	Presently providing service
12	Deepak Sahu	Kesla	16.12.2014 to 15.12.2016 16.12.2016 to 15.12.2018 16.12.2018 to 15.12.2020 16.12.2020 to 15.12.2022	Presently providing service
13	Haresh Kumar Yadav	Dhamtari	01.01.2014 to 31.12.2015 01.01.2016 to 31.12.2017 01.01.2018 to 31.12.2019 01.01.2020 to 31.12.2022	Presently providing service
14	Hari Yadav	Dhanora & Durg	No contract agreement was entered with the candidate.	No Agreement
15	Ranjan Jaiswal	Karhi	01.03.2014 to 28.02.2016 01.03.2016 to 28.02.2018 01.03.2018 to 29.02.2020 01.03.2020 to 28.08.2022	Presently providing service
16	Toshabanta Gartiya	Saraipali	01.04.2014 to 31.03.2016 01.04.2016 to 31.03.2018 01.04.2018 to 31.03.2020 01.04.2020 to 31.03.2022	Presently providing service
17	Kartik Ram Sahu	Chhurrikalan	16.09.2014 to 15.09.2016 16.09.2016 to 15.09.2018 16.09.2018 to 15.09.2020 16.09.2020 to 15.09.2022	Presently providing service
18	Om Prakash Nirmalkar	Utai	01.06.2014 to 31.05.2016 01.06.2014 to 31.05.2018	Dis- continued contract

19	Nanu Ram	Kawardha	01.09.2014 to 31.08.2016 01.09.2018 to 31.08.2020	Not providing service
20	Ishwar Vastrakar	Bilaspur	No contract was executed	Not providing service
21	Deep Chandra Satnami	Bemetra	01.06.2015 to 31.05.2017 01.06.2017 to 31.05.2019 01.06.2019 to 31.05.2021	Presently providing service
22	Bhushan Sahu	Bagbahara	01.03.2015 to 28.02.2017 01.03.2017 to 28.02.2019 01.03.2019 to 28.02.2021 01.03.2021 to 28.02.2023	Presently providing service
23	Raju Kumar	Kapan	04.06.2014 to 03.06.2016	Not providing service
24	Ram Sharan Shukla	Hirri	01.09.2014 to 31.08.2016 01.09.2016 to 31.08.2018	Not providing service
25	Om Prakash Sahu	DDU Nagar	01.08.2014 to 31.07.2016 01.08.2016 to 31.07.2018 01.01.2018 to 31.12.2020	Not providing service
26	Chandrakant Sahu	Rajjim	01.06.2014 to 31.05.2016 01.06.2016 to 31.05.2018 01.06.2018 to 31.05.2020 01.06.2020 to 31.05.2022	Presently providing service
27	Vinod Yadav	Tatibandh	01.08.2018 to 31.07.2020 01.08.2020 to 31.07.2022	Presently providing service
28	Ashok	Bhilai Durg Supela	09.11.2015 to 31.10.2017 16.09.2017 to 15.09.2019	Not providing

			16.09.2019 to 15.09.2021	service
29	Naresh Kumar Sahu	Bhoring	01.07.2014 to 30.06.2016 01.07.2016 to 30.06.2018 01.07.2018 to 30.06.2020 01.07.2020 to 30.06.2022	Presently Providing Service
30	Motilal Matsyapal	Sankra	01.10.2014 to 30.09.2016 01.10.2016 to 30.09.2018 01.10.2020 to 29.09.2022	Presently providing service
31	Suresh Kumar Sahu	Raipur Main	No contract agreement was entered with the candidate.	No agreement.

**Thus according** to Management Bank, the applicants involved in the reference have never been under employment of the Bank as a employee in any capacity rather they have been work contractors, who have been given contract of cleaning by the Bank, extended from time to time as mentioned in the list above. They used to do this job just for few hours in the Bank. They are not appointed through legal channels following recruitment process against any sanctioned vacancy hence **firstly**, there is no relation of employee and employer between the parties and **secondly**, they are not entitled to the reliefs claimed. The Management Bank has requested that the reference to be answered against the Workman Union.

***During proceedings, 12 workmen filed two applications dated 08.11.2023 and 21.11.2023 stating that their claim has been settled between them and Management Bank and have requested that no dispute Award be passed with respect to their claims. These applications were disposed by order of this Tribunal dated 05.12.2023 stating that no dispute Award shall be passed with respect to these 12 workmen when the final award will be passed. These 12 workmen are Motilal, Naresh Kumar Sahu, Bhupendra Kumar Kosariya, Bhusan Sahu, Sunderlal Shrivastava, Kishore Kumar Chouhan, Yogesh Kumar Shrivastava, Deepak Sahu, Haresh Kumar Yadav, Rajan Jaysawal, Suresh Kumar Sahu, Toshbant Gartiya.***

**In evidence**, the Workman Union has filed affidavit of Workman Subash Chandra Sahu, Bodhram Karsh, Vinod Yadav, Toshbant Gartiya Om Prakash Sahu, Chandrakant Sahu, Ashok, they have been cross-examined from the side of Management Bank on their affidavits filed as their examination in chief. The Management Bank has filed affidavit of Gatikrishna Panigarhi Chief Manager as his examination in chief. He has been cross-examined by Workman Union.

**The Workman Union** has filed and proved documents which are Circular of Bank dated 23.03.2011, admitted and proved, marked as Exhibit W-1 to W-5, Letter of Senior Manager to the Chief Manager of the Bank and the undertaking letter signed by the Workman Subash Chandra Sahu and certificate admitted by Management Bank, marked as Exhibit W-6 to W-9, Letter of Chief Manager dated 22.2013 with regard to forwarding original HHC Certificate cum Mark-sheet of Subash Chandra Sahu marked as Exhibit M-10, different payment vouchers, total 09 in numbers which are admitted and marked as Exhibit W-11, notice issued by Assistant Labour Commissioner on 22.03.2018 and 05.06.2018 which are Exhibit W-12 and W-13, letter of Senior Manager sent to General Manager forwarding the undertaking letter from Workman Bodhram Karsh (Temporary Messenger) and Sarita Rathore (Part time sweeper), marked as Exhibit W-14, Agreement for cleaning and housekeeping for different periods with different applicants which are Exhibit W-15 to W-34.

**The Management** has filed photocopy of memorandum of settlement between the Union and the Management Bank in circular dated 23.03.2011 issued by Bank in the light of settlement, 27 work contract agreements for cleaning and house-keeping services between the individual applicants and Bank for different periods which are marked Exhibits M-1 to M-45.

**I have heard argument** of Learned Counsel for the Workman Union Mr. Arun Patel and Mr. Abhinav S. Khedkar Learned Counsel for the Bank. Written submissions have also been filed on behalf of Bank, which is part of

record, I have gone through the written statement and record of both the cases.

**At the very outset**, it is to be made clear that a no dispute Award will be passed with respect to the 12 Workmen who have entered into settlement with the Management Bank, details mentioned earlier in this Judgment.

Further, according to the Bank itself, the Workmen Bodhram Karsh, was providing service as a Contractor till the dispute in R/36/2019 was raised. As it comes out from the reference in R/37/2023 referred to above this Bodhram Karsh was terminated according to reference during the pendency of the dispute i.e. Case R/36/2019 before this Tribunal and this Tribunal has been required to adjudicate the reference in R/37/2023 whether the action of termination of Bodhram Karsh by the Bank during pendency of the dispute before this Tribunal is justified or not.

**Needless to mention** here that, the case of Management Bank with respect to Both Ram Karsh is also the same as it is with respect to the other claimants that they were awarded contracts of cleaning for different periods in different Branches of the Bank, extended from time to time. Contract with some of the Applicants mention in the para 11 of the Written Submission of the Bank are continuing and has been discontinuing with respect to other claimants.

On perusal of record in the light of rival arguments, following issues arise for determination in both the cases.

- 1. Whether, the work contracts between the Management Bank and Applicants are camouflage and some screen?***
- 2. Whether, the claim of the applicants for permanent absorption is justified?***

**Issue No. 1** –

Pleadings of the parties on this issue have been elaborated earlier in this Judgment.

Learned Counsel for the Applicants has submitted that the Applicants have been working with the Bank on full time basis, the so called work agreements with respect to cleaning and house keeping, stated to be entered between the Bank and the Applicants, is mere camouflage, a smoke screen just to deny the Applicants their claim with respect to permanency in status and regularization. Learned Counsel has referred to judgment of Hon'ble Supreme Court in the case of *Devendra Singh V.s. Municipal Corporation Sanaur 2011 (4) MPLJ 62 (SC)* Hon'ble Supreme Court has laid down that *the definition of the 'Workman' under Section 2(s) of the Act does not make any distinction between full time and permanent employee or a person appointed on contract basis.* Also that, there is nothing under Section 2(s) of the Act from which it can be inferred that only a person employed on a regular basis or a person employed for 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 a duty for fixed hours is not a Workman. Para 13, 14 and 15 of this judgment have been referred to in this respect.

Learned Counsel for Workmen has also submitted that by way of these work agreements, the Bank has practiced unfair labour practice, which is prohibited under the Act and this Tribunal is well within its powers to lift the wave to enquire into the fact whether this so called work contract is a sham and camouflage just to deny these Applicants their legally admissible claims.

I have gone through the submissions of the Applicants in both the cases. There is on record affidavits of the Applicants Subash Chandra Sahu, son of Srinath Sahu, Bodhram Karsh, Vinod Yadav, Toshbant Gartiya, Om Prakash Sahu, Chandrakant Sahu, Ashok as their examination in chief. In their affidavits filed as their examination in chief, the applicants Subash Chandra Sahu has stated that he was first appointed as a temporary mazdoor in Bhilai Branch of the Bank on 12.01.2008, his work was filing, voucher stitching, maintenance of voucher register, taking posts and cheques to different Branches, cleaning of the Bank and all the other jobs directed by the

Branch Manager. He worked from the date of appointment i.e. 12.01.2008 to 18.04.2018. Applicant Bodhram Karsh has stated that, he was first appointed in the Korba Branch of the Bank on 09.01.2010 as a temporary Mazdoor, he worked till 30.11.2022 in his affidavit he has further stated that he was also doing the same jobs which the applicants Subash Chandra Sahu was doing. Applicant Vinod Kumar as stated that, he was first engaged in March, 2014 and worked till 14.11.2022 his statement with regards to the post and nature of jobs is the same as stated by the Applicant Subash Chandra Sahu and Bodhram Karsh. Applicant Toshbant Gartiya has stated that he was appointed as a temporary sweeper/cleaner on 08.02.2013 and worked till 31.03.2022. His statement with regards to nature of his work and duties is same as that of the applicant Subash and others. Applicant Chandrakant Sahu has stated that, he was first appointed on 23.01.2014 and continued till 31.07.2023, Applicant Ashok has stated that he was first appointed in May, 2014 as temporary mazdoor cum sweeper and continued till 07.06.2021, regarding the nature of work and duties preferred his statement as same as that of applicants Subash Chandra and others. All these witnesses have further stated that they were paid on monthly basis by way of payment voucher, the Bank had pressed upon them that they will be granted permanent status. They were made to sign the work agreements by the Bank under the impression that they will be granted permanent status and they can request it only when they sign these agreements. They have further stated that they worked continuously as mazdoor cum cleaner for the whole day and were disengaged during pendency of the dispute.

**In their cross-examination**, they have generally stated that their appointment was on daily rate basis, the post against which they were engaged was permanent. They did not have any objection to work at other place during the Banking hours; they have also admitted that their first work contract was extended twice. They further stated that they were not issued any appointment letter. They did not follow any recruitment process. They are engaged only on the basis of interview taken by the Branch Manager.

**The witness** from Bank has stated that after the process of regularization in the light of Circular dated 23.09.2011 issued for regularization/absorption of part-time casual daily wage employee working in different branches of Bank in the light of the settlement between the Bank and employees Union, the Applicant workmen were granted contracts of cleaning and housekeeping of the Branches for two years which was extended further for two years or three times. They were paid their wages in the light of their work contracts on per sq. ft. basis. Their work was only for few hours. In cross-examination, this witness has admitted that two applicants, which were working before 2011 were not given benefit of Circular of 2011 and he does not know the reason behind it. Before his this statement, he has denied the case of the Applicants Bodhram Karsh and Shubash Chandra Sahu that they were first engaged in 2010 and 2008 respectively as claimed by them.

**Learned Counsel** for the Management Bank has stated that after 2011, the Bank stopped recruitment of cleaners and housekeepers, it entered into contracts with different persons, initially for two years and which was extended later on. The Applicants entered into a Work contract with the Bank in different Branches for cleaning and housekeeping of the Branches. They were paid their wages on per sq. ft. basis. These agreements have been filed and proved by the Bank hence, there is no relation of workman and employee between the applicants and the Bank as defined under the Act. He further submits that there is no evidence to show that these work contracts were camouflage or sham except the serving statement of the Applicants.

***Section 2(ra) read with Schedule 4 describes unfair labour practice adopted by Management. It is being reproduced as follows -***

***2(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;***

***On the part of employers and trade unions of employers***

*1. To interfere with, restrain from, or coerce, workmen in the exercise of their right to organize, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say:—*

- (a) threatening workmen with discharge or dismissal, if they join a trade union;*
- (b) threatening a lock-out or closure, if a trade union is organized;*
- (c) granting wage increase to workmen at crucial periods of trade union organization, with a view to undermining the efforts of the trade union organization.*

*2. To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say:—*

- (a) an employer taking an active interest in organising a trade union of his workmen; and*
- (b) an employer showing partiality or granting favour to one of several trade unions attempting to organize his workmen or to its members, where such a trade union is not a recognized trade union.*

*3. To establish employer sponsored trade unions of workmen.*

*4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:—*

- (a) discharging or punishing a workman, because he urged other workmen to join or organize a trade union;*
- (b) discharging or dismissing a workman for taking part in any strike (not being as trike which is deemed to be an illegal strike under this Act);*
- (c) changing seniority rating of workmen because of trade union activities;*
- (d) refusing to promote workmen to higher posts on account of their trade union activities;*

- (e) *giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;*
- (f) *discharging office-bearers or active members of the trade union on account of their trade union activities.*

**5. To discharge or dismiss workmen—**

- (a) *by way of victimisation;*
- (b) *not in good faith, but in the colourable exercise of the employer's rights;*
- (c) *by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;*
- (d) *for patently false reasons;*
- (e) *on untrue or trumped up allegation of absence without leave;*
- (f) *in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;*
- (g) *for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.*

**6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.**

**7. To transfer a workman mala fide from one place to another, under the guise of following management policy.**

**8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.**

**9. To show favouritism or partiality to one set of workers regardless of merit.**

**10. To employ workmen as “badlis”, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.**

*11. To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.*

*12. To recruit workmen during a strike which is not an illegal strike.*

*13. Failure to implement award, settlement or agreement.*

*14. To indulge in acts of force or violence.*

*15. To refuse to bargain collectively, in good faith with the recognised trade unions.*

*16. Proposing or continuing a lock-out deemed to be illegal under this Act.*

Learned Counsel for the Applicants has submitted that these so called work agreements are being perpetuated by the Bank since more than 10 years for the same nature of job. It is established that the job is of permanent nature and is available with the Bank. He further submits that, when the job is available which is the permanent in nature, the Bank has prohibited under **Section 10 of Contract Labour (Regulation & Abolition) Act, 1970** to employee Contractors for these jobs. It shows that they so called work contracts are sham and camouflage because their very intention is to do an Act which is prohibited under the law. He has referred to Section 25T and 25U of the Act in this respect which prohibits unfair labour practice.

*Perusal of the 5<sup>th</sup> Schedule under Section 2(ra) of the Act, as mentioned above makes it clear that Awarding a Work Contract even though the Work is of permanent nature is not expressly included in the acts which are unfair labour practice..*

*“Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 is reproduced as follows –*

***10. Prohibition of employment of contract labour.-***

***(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit,***

*by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.*

*(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour that establishment and other relevant factors, such as-*

*(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment ;*

*(b) whether it is of perennial nature, that is to say, it is so of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment ;*

*(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;*

*(d) whether it is sufficient to employ considerable number of whole-time workmen.*

This provides with respect to Abolition of Contract Labour in works of permanent and perennial nature, it does not abolish Awarding of Contract for the Work which does not involve manpower supply by the Contractor.

*Hence, in the light of these facts, the action of Management in Awarding work contracts to the Applicants for cleaning and housekeeping cannot be held to be a unfair labour practice or prohibited under Section 10 of Contract Labour (Regulation and Abolition) Act, 1970.*

*It is also held that, the Applicants have failed to prove these work contracts as sham or camouflage.*

**Two Workmen** Bodhram Karsh and Shubash Chandra Sahu have taken a case that they are first appointed in 2010 and 2008 respectively i.e. before the Circular of 2011 (referred to above) was made applicable and were not granted benefit under the Circular. Details of the Circulars have been stated earlier. Both the workmen have corroborated their this case in their affidavits as their examination in chief and been cross examined by the Management side. In case reference No. R/37/2023 the Workman Bodhram Karsh has filed and proved a Certificate dated 04.05.2011 issued by the Branch Head which shows that this Workman has been engaged continuously for 240 days or more in a year preceding 15.11.2010 and that no other person has been engaged in his place. Another document, which is part of this certificate Exhibit W-1 in R/37/2023 is under taking letter for Temporary Mazdoor/Sweeper signed by this applicant Bodhram Karsh in terms of Clause 3(B) of settlement dated 17.02.2011 for absorption as temporary mazdoors/full-time/part-time sweepers. These documents established that Bodhram Karsh was working with the Bank since 2010. He did apply for his absorption under the application for forwarding by Branch in this respect with his undertaking along with his documents. Case of Bodhram Karsh is that he was not granted benefit of the Circular with regard to his claim for regularization/absorption.

**In their statement of defense**, the Bank is silent on this allegation in the statement of claim which has been proved by his affidavit and been cross-examined as well documents referred to above. In its written statement of defense, in the case R/36/2019 also, on the point why claim of Bodhram Karsh was not granted.

**Learned Counsel** for the Bank has submitted that core condition for grant of claim in the Circular of 2011 was that the Claimant should have completed 240 days in Calendar year as on 15.11.2010. As stated earlier, the

document Exhibit W-1 filed in connected case R/37/2023, it speaks that the Applicant Bodhram Karsh was engaged on 09.01.2010 and had completed 240 days or more continuously in a Calendar year preceding the date 15.11.2010. ***Hence, it is held that the claimant Bodhram Karsh had fulfilled the conditions of grant of regular employment under the Circular of 2011.*** There is nothing on record from the side of Bank in form of document or affidavit to justify Learned Counsel on this claim of Applicant Bodhram Karsh.

***Since, it is established and proved that Bodhram Karsh was working as a casual employee on daily wage and had completed 240 days in a year preceding his disengagement as a casual labour, without any notice or compensation, disengagement of Bodhram Karsh is held in violation of Section 25F and 25G of the Act.***

**Though**, Bodhram Karsh signed work contract after reading agreement for cleaning and housekeeping along with other applicants but the fact still remains that he was disengaged without any notice or compensation though he had worked for 240 days in the year preceding the date of his disengagement which is against law.

As regards the other applicant Subash Chandra there is nothing on record except his affidavit and cross-examination to corroborate his claim that he was working since 2008, hence his claim that he was engaged since 2008 is held not proved.

***Issue No. 1 is answered accordingly.***

**Issue No. 2 –**

**Learned Counsel** for the Workmen has referred to ***judgment of Hon'ble Supreme Court in the case of Maharashtra State Road Transport Corporation Vs. Casteribe Rajya P. Karmchari Sanghatana (2009) 8 SCC 556.*** In this case it has been held that the referred judgment of Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka Vs. Umadevi***

*(2006) 4 SCC 1* will not help the employees, once unfair labour practice on the part of employee is established in such a case Industrial Tribunal and Labour Courts are empowered to issue prohibitory as well as positive direction to an erring employers (*Para 26 of this Judgment be referred to in this respect*).

Another judgment of Supreme Court referred in the case of *Amarkant Rai Vs. State of Bihar (2015) Vol. 8 SCC 265* referred to from the side of the Workmen also does not help on facts.

The judgments of Hon'ble Supreme Court in the case of *Secretary, Haryana State Electricity Board Vs. Suresh AIR (1999) SC 1160* can also be distinguished on facts.

*From the above discussion and findings, the applicants may be classified in three categories with respect to above prayed reliefs.*

1. *First category of applicants who have been entered into settlement with the Management Bank, no dispute Award be passed with respect to them.*
2. *The second category of Applicants, except Shubash Chandra Sahu which is held entitled to no relief in the light of findings recorded on Issue No. 1.*
3. *The third category of Applicant Bodhram Karsh he is held entitled to be considered for reinstatement and grant of permanent as well regularized status in the light of the Circular of the Management Bank dated 23.03.2011.*
4. *The fourth category of Applicants who have worked with the Management Bank on different work contracts, are held entitled to no relief because these work contracts cannot be held to be a camouflage.*

*Issue No. 2 stands answered accordingly.*

*In the light of above discussion and findings, the reference is answered as follows -*

**AWARD**

- 1. First category of applicants who have been entered into settlement with the Management Bank, no dispute Award be passed with respect to them.*
- 2. The second category of Applicants, except Shubash Chandra Sahu which is held entitled to no relief in the light of findings recorded on Issue No. 1.*
- 3. The third category of Applicant Bodhram Karsh he is held entitled to be reinstated within 90 days from the date of Award and to be considered for grant of permanent as well regularized status in the light of the Circular of the Management Bank dated 23.03.2011, within a period of six months from the date of Award.*
- 4. The fourth category of Applicants who have worked with the Management Bank on different work contracts, are held entitled to no relief because these work contracts cannot be held to be a camouflage.*

**DATE:- 24.02.2026**

**(P.K.SRIVASTAVA)  
PRESIDING OFFICER**