

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR [M.P.]

NO. CGIT/LC/ R/69/2012

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Prashant Bhavsar,
 S/o Shri Premlal Bhavsar,
 Bhavsar Mohalla,
 Near Dharmshala,
 Khargone (M.P.)- 4851001**

Workman

V/s

**The Managing Director,
 State Bank of Indore, Head Office,
 5, Y.N. Road,
 Indore (M.P.)**

Management

(AWARD)

सत्यमेव जयते

(Passed on this 21st day of July, 2026)

As per letter dated **16/05/2012** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under **Section-10 of Industrial Disputes Act, 1947** (in short the 'Act') as per Notification **No. L-12012/04/2009 (IR(B-I))** dt. **16/05/2012**. The dispute under reference relates to:-

"Whether the action of the management of State Bank of India (the then State Bank of Indore) in terminating the services of Shri Prashant Bhavsar w.e.f. 08/03/2007 is legal and justified? To what relief the workman is entitled?"

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

The case of the workman is mainly that he was first engaged in the State Bank of Indore as temporary Peon/waterman in the main Branch at Khargone on 19.12.1991 and worked continuously in the said Bank till 07.03.2007. He was disengaged without any notice or compensation since 08.03.2007. The State Bank of Indore later on merged with the State Bank of India in 2010. This action of the Bank is against law and is in violation of section 25-F and 25-G of the Act. It is further his case that a circular No. 520 dated 11.03.1995 was issued by Bank for adjustment of part time workers who were found eligible in light of the said circular. He did file an application in this respect for his absorption which was not granted. He raised a dispute in this respect before the concerned Labour Commissioner (Central) he has prayed that holding his disengagement, unjust, illegal and arbitrary. He is held entitled to be reinstated with all back-wages and benefits.

Management has taken a case in their written statement of defense that the applicant was never engaged as a temporary waterman/ peon by the State Bank of Indore for the period or any period as claimed by him. He never worked continuously in any year for 240 days or more. There are certain Rules and Regulations with respect to appointment of subordinate staff in the Bank. Branch Manager is not authorized to appoint any person in any capacity without prior approval of the General Manager of the Bank. In light of circular of the Bank dated 07.09.1992, he never followed any recruitment process with respect to recruitment on any vacant post. The Bank has prayed that the reference be answered against the workman.

The workman has filed his rejoinder wherein he has mainly reiterated his allegations.

In evidence, the workman has filed his affidavit as his Examination-in-chief, also has filed affidavit of his witness Vinod Kumar Acharya, an Officer of the Bank and Poonam Chand Chauhan, an Employee of the Bank as their Examination-in-chief. They have been cross-examined by management Bank. The Bank has also filed affidavit of its witness Ram Kumar Rai as his Examination-in-chief, he has been cross-examined by workman side.

The workman has also filed and proved documents which are order of Hon'ble High Court, certificate dated 13.08.1993 issued by the Branch Manager, his application for his absorption sent on 20.06.2000 to the Bank and different office orders showing his engagement. Application dated 07.04.2016 was filed by the workman directing the management Bank to produce salary register, attendance register and payment vouchers with reference to attendance and payments to the workman. The management stated in its reply that these documents are not available with them because they are not maintained with respect to daily wagers.

I have heard argument of Learned Counsel for workman Mr. Swapnil Khare and Mr. Vijay Tripathi, Learned Counsel for the management Bank. Both the sides have filed written submissions which are part of record. I have gone through the written submissions and record as well.

Learned Counsel for the workman has submitted that the workman has successfully proved his continuous engagement since 1991 till 07.03.2007 in his statement which is corroborated by statements of two Bank employees who worked in the relevant period in the said Branch. His case is further corroborated by the documents as mentioned above he was not paid any compensation at the time of his disengagement. Hence, he deserves to be reinstated with

back-wages and benefits because his disengagement is in violation of section 25-F and 25-G of the Act.

It has been submitted from the side of Bank that the workman was never engaged as claimed by him by the Branch. The Branch Manager did not have any authority to engage any person without approval of General Manager. The workman might have been engaged on purely temporary basis as a daily wagger on as and when required basis. He was not appointed against any regular or sanctioned vacancy following recruitment process. He never completed 240 days in any year hence his disengagement is not against law. Furthermore, the State Bank of Indore has been taken over by the State Bank of India, service of only the regular staffs were transferred to State Bank of India. The workman has admittedly been disengaged before taking over hence he does not deserves any relief.

Learned counsel for the workman has relied upon following case law; ***Goverdhan vs Chief Municipal Officer (M.P. No. 6329 of 2020), by the Madhya Pradesh High Court.***

Management Bank has relied on following case law; ***State of Uttarakhand v. Sureshwati, 2021 (3) SCC 108, paragraphs 25 and 26 of the Judgment.***

On perusal of record in light of rival arguments, following Issues came up for determination:-

- 1) ***Whether the workman has successfully proved his continuous engagement with the management Bank as defined under section 25-B of the Act?***
- 2) ***Whether the action of management in disengaging the workman is in violation of Section 25-F and 25-G of the Act?***

- 3) *Subject to findings on issue No. 1 and 2, whether the workman is entitled to any relief?*

Issue No.1,

Before entering into any discussion, **Section 25-B of the Act**, which defines '*continuous service*', is being reproduced as follows:-

"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.”

Pleadings of the parties on this issue have been detailed earlier. In his affidavit as his Examination-in-chief, the workman has stated that he was first engaged in the main Branch of the Bank at Indore on 19.12.1991 and continuously worked till 07.03.2007 as a peon and messenger, his job was managing the vouchers, carrying the cheques and documents as well cash, bundling the cash and acting as messenger. He has further stated that he has filed and proved certificate issued by the Branch Manager in this respect which is on record.

In his cross-examination, the workman has stated that there was no advertisement released for the vacancy. His name was not sponsored by the Employment Exchange, he did not follow any recruitment process, and his work was supply of water as well messenger, he denied that there was no post of waterman in the Branch. He has also stated that he has worked continuously from the date of his engagement till disengagement and had completed more than 240 days in every year. The **workman witness Poonam Chand Chauhan, who was Special Assistant** in the said Branch has corroborated the case and statement of the workman and has stated that he was first appointed in the Bank on 26.12.1969 and superannuated on 31.07.2005 he has seen the workman working since 25.12.1991 to 31.01.2008, the workman used to do cleaning, managing the

vouchers and following the instructions of Branch Manager. This witness has been cross-examined by management, he has stated that he cannot specifically tell as to how many days the workman worked from 08.03.2006 to 08.03.2007 but he rarely availed leaves. This witness further states that he has worked in the said Branch in his first tenure from 1969 to 1980 and 1984 to 2005 till date of his superannuation which is 31.07.2005, there were three or four regular peons in the Branch against the sanctioned vacancy of seven peons. **Another workman witness Vinod Kumar Acharya**, who is Special Officer in the Bank, has corroborated the case of the workman and has stated that he was first appointed on 12.05.1984 as a Special Officer and superannuated on 31.03.2011. He has seen the workman working in the Branch from 25.12.1991 to 31.01.2008, his job was cleaning of the Branch, acting as messenger, carrying Daak, managing vouchers and following instructions of the Manager.

In his cross-examination, this witness has stated that he worked in the said Branch from 1984 to 2009, there were 44 staff at the time of his joining, the management had right to appoint a peon at the time when the workman was engaged by the Branch Manager. The Branch Manager could appoint peons at that time on temporary basis, the workman had continuously worked for the said period, many staff retired between 1984 to 2009 but vacancy in the Branch was not filled up because there were no regular appointments.

The management witness Ram Kumar Rai has corroborated the case of the Bank at this issue in his affidavit as the Examination-in-chief by stating that the workman was never engaged as a waterman/peon on temporary basis as claimed by him against any vacancy following the recruitment process under circular of the Bank dated 07.09.1992, no Branch Manager can engage anyone in any capacity without prior approval of General Manager, no certificate as claimed by the workman was issued, no

representation as claimed by the workman in light of circular No. 520 dated 11.03.1995 for his absorption was ever received in the Bank. He never completed 240 days in any year.

In his cross-examination, this witness has stated that he is working in the said Branch since 16.12.2024 all his statements is on the basis of information received by him from the workers who had earlier worked in the Branch. This witness has been confronted by workman side with respect to order dated 20.08.2005 regarding work allotted to the workman which he had responded by saying that there is no such document in the Branch. He also pleads ignorance with respect to absorption of part time workers in light of office order dated 13.08.1993. The statements of the workman and his witnesses, as stated above corroborated each other and the case of the workman. The workman did file an application to summon documents with respect to his attendance and payment about which the case of the management Bank was that they were not available with the Bank because the Bank does not maintain records with respect to daily wagers. The case of the workman further corroborated by the certificate issued by the Bank by Branch Manager and application form sent by workman for his absorption.

In the case cited by the management Bank in their written arguments, it has been held that the burden to prove that the workman was in actual and continuous service is on him. There is no quarrel with this proposition of law but after comparative evaluation evidence from both the sides, the evidence from the side of workman appears more reliable on this point.

Accordingly, **the workman is held to have proved his continuous employment with the Bank for 240 days or more in every year** from the date of his first appointment till his disengagement including the year preceding the date of his disengagement.

Issue No. 1 is answered accordingly.

Issue No. 2,

The case of the workman is that he was not paid any compensation or any notice pay as required under section 25-F and 25-G of the Act and ***secondly***, that workers appointed after his engagement are still working with the Bank.

Section 25-F, 25-G & Rule 77 of the Act, is being reproduced as follows:

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.

77. Maintenance of seniority list of workmen:- *The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

Undisputedly, no notice was issued to the workman by the Bank before his disengagement nor was he paid any compensation. **Hence his disengagement is held in violation of the Act.**

Issue No. 2 stands answered accordingly.

Issue No. 3

In light of aforesaid findings, the question arises as to relief to which the workman may be held entitled to.

Learned counsel for the workman has submitted that he is entitled to be reinstated with back-wages and benefits, he has referred to Judgment of Hon'ble High Court of Madhya Pradesh in M.P. No. 6329/2022, in this case the workman was a daily wager who was disengaged without notice or compensation, he was ordered to be reinstated in service with 50% back-wages and consequential benefits by Single Bench of Hon'ble High Court.

In the case in hand, the State Bank of Indore has been acquired by State Bank of India, this is also stated that the workman was not engaged following recruitment process against any vacancy. Hence, **his initial engagement cannot be held to be a regular employment, he has either crossed the age of superannuation or about to cross it. In these circumstances his reinstatement will not be a just relief.**

There is force in the argument of management for the appointment of the workman was not through recruitment process, hence, not a regular appointment. Hence, in these circumstances, a lump-sum **compensation quantified Rs. 4,00,000/- (Four Lacs Only)** in lieu of all his claims will meet the ends of justice which the workman is held entitled to be paid by the Bank within 90 days from the date of publication of the Award, failing which interest @ 6% p.a. from the date of Award till payment.

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

AWARD

"Holding the action of State Bank of Indore in disengaging the workman Shri Prashant Bhavsar from 08/03/2007, illegal, arbitrary and unjustified, he is held entitled to a lump sum amount of Rs. 4,00,000/- (Four Lacs Only) to be paid by the State Bank of India (Transferee Bank), within 90 days from the date of Award, failing which interest @ 6% p.a. from the date of award till payment, in lieu of all his claims. Reference stands answered accordingly."

No order as to cost.

DATE:- 21-07-2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER