

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, JABALPUR**

NO. CGIT/LC/RC/12/2013

Present: P.K.Srivastava
H.J.S.(Retd)

**Shri Ajay Kumar Jain,
S/o Shri Mahavir Prasad Jain,
R/o Gram Kanchnav Khrud
Post Kanchnav kalan,
Tehsil Gormi,
District-Bhind(M.P.)**

Workman

Versus

**The Branch Manager,
State Bank of India,
Kanchnav kalan,
Tehsil-Gormi,
District Bhind(M.P.)**

**The Assistant General Manager
State Bank of India
Regional Business Office
City Centre, Gwalior(MP)**

Management

ORDER

(Passed on this 28-7-22.)

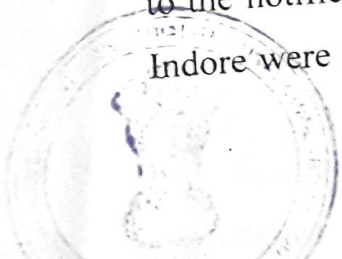
1. This case has proceeded on the basis of petition filed by applicant workman under Section 2A(2&3) of Industrial Disputes Act, 1947, herein after referred to as the word 'Act'. According to the workman, he was engaged by the Management and has worked continuously for a period of more than 240 days in every year. His services were terminated by Management without giving him compensation as per the Act which is in



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violation of Section 25F of the Act. According to him, he has prepared a chart containing his date of appointment, date of termination, the names of employees junior to him who were retained in service, their place of posting etc. This chart also contains the date on which the Management abruptly deposited the amount, which the management claims to be the amount of retrenchment compensation in the account of the applicant. This amount cannot be said to be in compliance of Section 25F of the Act. The compensation has not been given at the time of retrenchment. The workman junior to him who joined services of the Bank after the applicant/workman have been continued which is in violation of Section 25G of the Act. The Management has further violated Section 25N of the Act by not taking approval from appropriate Government, hence the act of the Management in terminating his services is arbitrary, illegal and unjust. He raised a dispute in this respect before the Conciliation Officer, Regional Labour Commissioner within three years. The dispute could not be conciled within 45 days of filing, hence he was permitted to file the petition directly before this Tribunal, which he has filed. The applicant workman has further claimed the relief of setting aside his termination holding it against law and further claimed reinstatement with all back wages and benefits.

3. The case of the management as taken by them in their written statement of defence is mainly that the applicant workman was engaged by the then State Bank of Indore as a daily wager on temporary basis. The State Bank of Indore merged in the present management of State Bank of India vide notification of Central Government dated 28-7-2010. According to the notification only permanent Officers/officials of the State Bank of Indore were to be observed by the acquiring State Bank of India. Hence



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the applicant workman cannot claim his absorption/regularisation with the State Bank of India because he was a daily wager who had never completed 240 days of continuous service in any year including the year preceding the date of his termination. The records are not available with the State Bank of India because the applicant workman was engaged by State Bank of Indore before its merger in 1997. The Management has further defended that any persons junior to him have been retained in service and also that since the State Bank of India is not covered in the definition of Industrial Establishment as defined under Section 25L(a) of the Act, provision of Section 25M do not apply on them. According to the Management, the workman was not appointed as per recruitment procedure against regular vacancy, hence he cannot claim his reinstatement. Accordingly the management has prayed that the petition be dismissed.

5. In spite of opportunity given to the applicant workman since 2013 till date, he did not file any evidence in support of his claim. The initial burden to prove the fact that he was in continuous employment in 240 days in every year is on the workman in which he has failed because he has not lead any evidence on this point. Hence withholding the claim of the applicant workman not proved, the petition is liable to be dismissed and is dismissed accordingly.

ORDER

The Petition stands dismissed accordingly.

No order as to cost.


(P.K.SRIVASTAVA)
PRESIDING OFFICER

DATE: 28/7/2022