

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

NO. CGIT/LC/RC/19/2013

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Jitendra Singh Kushwaha
Circuit House Bngalow No.6,
Gandhi Road
Gwalior(M.P.)**

Workman

Versus

**The General Manager
State Bank of India
Indra Complex-Vijay Nagar,
Chetakpuri Gate,Gwalior**

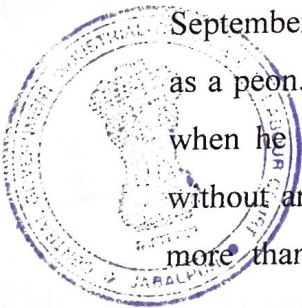
**The Branch Manager
State Bank of India
Chetakpuri Gate,Gwalior**

Management

ORDER

(Passed on this 17-10-2022)

1. This case has proceeded under 2(A)(2&3) of the Industrial Disputes Act,1947 wherein he has stated that he was appointed in September-2008 in State Bank of Indore , Vijay Nagar Branch, Gwalior as a peon. He worked till 24-6-2012 to the satisfaction of his superiors , when he was terminated under an oral order of the Branch Manager, without any notice or compensation.. He had worked continuously for more than 240 days in every year from 2006 to 2012. Hence his



termination is bad in law being in violation of Section 25F, 25G and 25H and 25N of the Industrial Disputes Act, 1947. Accordingly, it has been prayed that setting aside his termination, he be reinstated with all back wages and benefits.

2. The case of the management in brief is that the workman was never appointed by management against any vacancy under any recruitment process. He was at the most a daily wage casual labour engaged by the Bank for some period in a day as and when required, for which he was paid his wages. The applicant workman was in fact appointed by the Local Implementation Committee which is run by staff members for their welfare, hence there was no relation of employer and workmen between the Bank and the applicant workman, accordingly, the Management has prayed that the reference be answered against the workman.

3.. The applicant/workman has filed rejoinder wherein he has mainly reiterated his case.

4.. The workman has filed his affidavit as his Examination in Chief. He has been cross-examined by Management. The Management has not filed any evidence. At argument stage, the workman did not appear, hence argument of learned counsel for management were heard and record was perused by me.

5.. It also comes out from perusal of the record that vide order dated 14-8-2015, the Management bank was directed to produce documents as mentioned in the order. The management did not file any document.



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6.. The Reference is the issue for determination, in the case in hand.

7.. In his statement on oath, the workman has reiterated his case that he was engaged by the Branch Manager of the Bank and he worked continuously for more than 240 days in every year. He denied that he was engaged as a canteen boy of Local Implementation Committee. There is nothing in his cross-examination to dis-credit him. The management has not discharged this burden to prove that the workman was in fact engaged by Local Implementation Committee of the Bank, Hence , holding that the workman has successfully proved his engagement as daily wage casual labour with the Bank for 240 days and more in every year including the year preceding the date of his termination and that admittedly no notice or compensation was given to him. Accordingly his termination without any notice or compensation is held bad in law.

8.. Since the workman was not appointed by following recruitment procedure against a regular vacancy, he cannot be ordered to be reinstated . In the facts and circumstances of the case in hand, a lump sum compensation of Rs.40,000/- in lieu of his claim, will meet the ends of justice. Thus the workman is held entitled to a lump sum compensation of Rs.40,000/-.

ORDER

Petition stands disposed accordingly.

No order as to costs.


(P.K.SRIVASTAVA)
PRESIDING OFFICER

DATE: 17-10-2022

