

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – CUM –
LABOUR COURT-II, NEW DELHI**

I.D. NO. 13/2009

Sh. Suresh Chand, S/o Sh. Kudey Ram,
H.No. 232/01, Bhingarh Kheri Near Railway,
Gurgaon.

VERSUS

The Regional Manager,
Syndicate Bank,
Regional Office, 48, Neelam Bata Road, NIT,
Faridabad.

Counsels:

For Applicant/ Claimant:

Sh. B.K. Pal, Ld. AR.

For Management/ Respondent:

Sh. Rajesh Mahendru, Ld. AR.

Award

01.07.2026

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)(**Hereinafter referred to as ‘the Act’**), the Government of India, through the Ministry of Labour and Employment, vide its Order No. L-12012/62/2008-IR(B-II) dated 06.02.2009, has been pleased to refer the following dispute between the employer, that is the management of Syndicate Bank and their workman for adjudication by this Tribunal in the following terms:

“Whether the action of the Regional Manager, Syndicate Bank, RO, Faridabad in terminating the services of the workman Shri Suresh Chand w.e.f. 7.11.2006 is just, fair

and legal? To what relief the concerned workman and from which date is entitled?"

2. Upon receiving the said reference, notices were issued to both claimant and the management. In response to the notice, workman had appeared and filed his claim stating that he had been in the employment of the management where he had been working as "Water Boy cum Attender" with Gurgaon Cantontment Branch w.e.f. 15.05.1988 to 14.06.2006. He had been paid monthly salary on voucher at the rate of Rs. 60/- per day which has been increased to Rs. 80/- per day. He had been carrying out the work regularly in the nature of slip bundling, cash sorting, taking out signature cards from card boxes for verification of signatures of account holders and then putting them back at proper place, filing of papers and even outstation duties were also assigned to the workman at Syndicate Bank Zone office, New Delhi. The management neither issued any appointment letter nor regularized his services; a number of representations for the said purpose were made which had been duly forwarded by Chief Manager/Branch Manager and the officers of the Bank to the higher authorities of the bank so that he would be absorbed in regular service, however, nothing happened. Since the management refused to meet the demand of workman concerned, his services were terminated illegally on 21.09.2006. Subsequently, he took the recourse of conciliation, but it was resulted into failure. Thereafter, the appropriate government referred the matter to this Tribunal for adjudication.

3. Respondent filed the written statement. it denied the employee-employer relationship between the workman and the management, however, it submitted that claimant was unauthorisedly engaged by the Branch Manager as casual labour for bringing potable water from outside during the shortage of water in the branch. It is settled law that the respondent being a nationalized bank, any appointment in any category can only be made as per the recruitment procedure prescribed for the post. On merit, management has also submitted that the claimant was engaged for

fetching potable water to the branch as and when required and was paid coolie charges for the same. Claimant never performed any duties of the temporary attender at any branch as alleged by him. Hence, the management submitted that claim of the claimant is misconceived and is liable to be rejected.

4. Rejoinder had been filed by the claimant. He has denied the averment made in the management's written statement and affirmed the facts mentioned in his claim statement.

5. Though no separate issues were formally framed for adjudication in the present case, the terms of reference were treated as the issue for determination.

6. Workman, in support of his contention, had examined himself. He has reiterated the facts as mentioned in his claim statement. Additionally, he had deposed the fact that he has worked under officers of the bank namely Sarvashir Sublok, Atma Ram, K.P. Rao, H.K. Nayak, Balraj, K.K. Pal, R.B. Uppal, Suresh Sharma, P.R. Tondon. M.C. Gupta, Shivcharan, D.B. Chattopadhyay, T.B. Chawtani, Chokar Varmani, R.P. Jindal and O.P. Kohli who worked as CM, Manager and RO in the years 1988,1997-1998, 1999, 2000, 2004-2008 respectively. He further deposed that vide letter dated 18.06.2000, Chief Manager of Syndicate Bank, Gurgaon Branch has recommended his name for part time work. His name was again forwarded vide letter dated 24.09.2006 for regular appointment as attender cum-water boy at bank's branch office at Faridabad. He has relied upon the several documentsi.e.:

- (I) **Ex. WW1/1 to Ex. WW1/58:** Photocopies of the vouchers for the years 1992, 1993, 1998, 2005 & 2006
- (II) **Ex. WW1/59:** Copy of letter dated 18.06.2000 written by the Chief Manager.
- (III) **Ex. WW1/60:** Copy of letter dated 24.09.2006.

- (IV) **Ex. WW1/61:** Copy of performa dated 06.09.2006 which was signed by workman.
- (V) **Ex. WW1/62:** Copy of circular dated 22.08.2006.
- (VI) **Ex. WW1/63:** a letter dated 30.10.2006 written by Senior Manager, Airforce Station, Gurgaon to the Regional Manager, Faridabad regarding payments made to the claimant.

7. Workman was put to the test of cross-examination. He denied that the vouchers placed on record i.e. Ex. WW1/1 to WW1/58 do not belong to him. He also denied that he never performed the duty of Peon/Attender from 15.05.1988 to 14.06.2006 and also denied that he did not work for 240 days in any calendar year. He denied that he was only engaged for bringing water outside and for which collie charges were paid to him and apart from that he has not performed any other work in the bank. Remaining cross-examination was related to his employment as well as unemployment. He submitted that he is educated upto 5th standard. No appointment letter was issued in his favour. His attendance was not marked in the attendance register. He voluntarily stated that the Branch Manager used to mark his attendance on a separate sheet. He also submitted that there was scarcity of drinking water in Main Branch, Gurgaon of the Bank. He denied that he used to work as a Water Fetcher for one or two hours in a day.

8. In rebuttal, management has examined its one witness **Sh. Tuhi Ram**. He has reiterated the facts as mentioned in his written statement. Sh. Tuhi Ram (MW1) in his cross-examination stated that he has worked as Senior Manager from May 2003 to June, 2007 and thereafter July, 2013 to 31.05.2015. He admitted that he was not working in the branch during the relevant time. He is aware of the content of the document marked as **Ex. WW1/62**. He admitted that the document marked as **Ex. WW1/60** refers to the document of the branch but not by the regional office. He further admitted that the document marked as Ex. WW1/61 is a document prepared in the format issued by the bank to its branches for furnishing

details like the carpe area of the branch and the Badli Sweepers working there. Ex. WW1/59 is the document relating to the appointment of part time sweepers in the bank written by the branch manager to the regional office. He cannot say if the vouchers marked as Ex. WW1/1 to Ex. WW1/58 are the acknowledgement of payment of wages to the workman. He denied that the workman was terminated from the service by the bank, since, there exists no relationship.

9. Thereafter, respondent had examined another witness i.e. **Sh.Bhushan Vashishtha**, who had worked in the branch from 2005 to 2009. This witness was cross-examined where he admitted that he worked for the Syndicate Bank from 1984 to 31st March, 2021. He deposed the fact that he joined the Gurgaon Branch of the bank as Assistant Manager and continued till June, 2009. He submitted that bank had no record of Suresh Chand working in the bank for any purpose, but, he came across the vouchers during the period from 2005 to 2009 showing payment to the claimant. He admitted that the claimant was working in the branch of the bank at Gurgaon. He again said that at the time of need on account of leave of regular employee, they were calling Suresh Chand to the branch for providing water to the employees. He admitted that claimant was discharging the work whatever is assigned to him under the supervision of the senior branch manager. He could not say if the name of the claimant for regularization of his service was recommended by the union to the management bank. He admitted that attendance record of the claimant for the relevant period was being maintained by the senior manager of the bank and on the basis of the same, the payment was being made to him.

10. Whole of the case of the claimant rests upon the premise that he had worked with the respondent from the year 1988 to 2006 and he has been made payment accordingly. MW2 has admitted that claimant had worked with the respondent branch as Water Boy. He had not denied that the claimant was discharging the work, rather than, he has admitted in a positive manner that claimant was discharging the work "Waterboy"

assigned to him under the supervision of Senior Branch Manager. So, he submits that he has proved his case that he has served the branch as “Waterboy cum Attender”, so, his termination is illegal.

11. On the other hand, the management’s stand rests on the premise that the claimant was not issued any appointment letter. He had further relied the case of **State of Karnataka vs. Uma Devi and Ors., Civil Appeal Nos. 3595-3612 of 1999**, where the Hon’ble Supreme Court has held that unless employment is made as per the relevant rules and after a complete competition among the qualified candidates, the same would not confer any right on the appointee. Management’s has stated that claimant was engaged for fetching potable water to the branch as and when required and was paid Collie charges for the same and he never performed any duties of the temporary Attender at any branch as alleged by him.

12. Management further drawn the attention to this Tribunal towards the cross-examination of the claimant where the claimant had admitted that Zonal Office is empowered to appoint someone against a post and a Branch Manager has no powers to appoint someone against a post. He further admitted that there is no post of known as “Waterboy cum Attender”. Post was not advertised. His name was not sponsored by employment exchange. He has relied upon the judgments of **BhavnagarMunicipal Corporation vs. Jadeja Govubha Chhanubha, (2014) 16 SCC 130 and Manager, Reserve Bank of India, Bangalore vs. S. Mani, (2005) 5 SCC 100**. The Hon’ble Supreme Court in **Mukand Ltd. vs. Mukand Staff & Officers, (2004) 10 SCC 460**, where it is held as under:

“36. We, therefore hold that the reference is limited to the dispute between the company and the workmen employed by them and that the Tribunal, being the creature of the Reference, cannot adjudicate matters not within the purview of the dispute actually referred to it by the order of reference.”

13. I have heard the arguments advanced by both parties and perused the record. Though, it is admitted by the management that the claimant was engaged by them, it denied that the claimant had completed 240 days of service in a calendar year. However, the claimant has Exhibited a number of vouchers (Ex. WW1/1 to Ex. WW1/58), which establish that he had worked with the management continuously for a long period and had completed more than 240 days of service in a calendar year. The management has also failed to dispute the said vouchers. On the contrary, MW2 admitted that the claimant was working in the branch, his attendance was maintained by the Senior Branch Manager and payment was made on the basis of attendance.

14. The claimant's case is further supported by Ex. WW1/62, whereby the management invited applications from eligible temporary employees for regularisation against vacant posts of Attenders. In pursuance, the claimant filled up the prescribed proforma (Ex. WW1/61), which has not been disputed by the management. Further, vide letter Ex. WW1/59, the Chief Manager sent the claimant's application to the Regional Office describing him as 'Water Boy working at his branch.' Further, the document (Ex. WW1/63) is a letter written by the Senior Manager where he informed the Regional Manager that the claimant was being paid wages at the rate of Rs. 80/- per day as labour charges and requested posting of one regular Attender at the branch. These documents clearly establish that the claimant had been continuously working in the branch under the management.

15. In view of the documentary evidence on record, this Tribunal is of the view that the claimant has successfully established the employer-employee relationship with the management.

16. Now, the next question that arises for consideration is whether the services of the services of the claimant was terminated illegally by the management. Before proceeding further, the language of Section 2(oo), which defines the term 'retrenchment', and Section 25F of the Act, which sets out the conditions to be complied with by an employer before retrenching a workman, is required to be reproduced herein:

[(oo) “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

c) termination of the service of a workman on the ground of continued ill-health;]

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 2 [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 3 [or such authority as may be

specified by the appropriate Government by notification in the Official Gazette].

17. From the perusal of the above sections, it is clear that in industrial law, there is no absolute protection given to the claimant/workman against retrenchment under the Industrial Disputes Act, 1947. An employee can be retrenched by an employer if certain conditions are fulfilled. The first exception has been provided within the definition itself, namely when a workman is terminated by way of disciplinary action. Other exceptions include voluntary retirement, superannuation as per contract, non-renewal or termination of a contract on its expiry, and termination due to continued ill-health.

18. In the present case, the management has neither pleaded nor proved that the termination of the claimant falls within any of the exceptions contained in Section 2(oo) of the Act. Rather, its only defence is that the claimant was merely engaged on a casual basis for fetching potable water and, therefore, there existed no employer-employee relationship. This Tribunal has already given finding of employer-employee relationship between the claimant and the management.

19. Since the management has denied the relationship of employee-employer between it and the claimant, no question arises that it ever complied with the conditions as set out in section 25F of the Act, before terminating the claimant. Moreover, there is nothing on record to show that the claimant was served with one month's notice or paid wages in lieu thereof, retrenchment compensation was paid, or notice was served upon the appropriate Government in the prescribed manner. Non-compliance with the mandatory conditions prescribed under Section 25F renders the retrenchment illegal and unjustified. Accordingly, the termination of the claimant is held to be illegal and unjustified.

20. Further, the question that arises is with regard to the relief to which the claimants are entitled to. As a general rule, where termination is declared illegal, the appropriate relief is **reinstatement with full back wages**. However, it has been held by the Hon'ble Supreme Court of India in **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 where the termination is held illegal and compensation can be granted instead by the industrial adjudicator. Similar views were expressed by the Hon'ble High Court of Delhi in *Indian Hydraulic Industries Pvt. Ltd. vs. Kishan Devi and Bhagwati Devi & Ors.*, wherein it was held 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, including grant of compensation in lieu of reinstatement and back wages. The same principle has been reiterated by the Hon'ble Supreme Court in **Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik (2025 (INSC) 218)**, wherein it was held that reinstatement with full back wages is not an automatic relief and, in appropriate cases, lump sum compensation may be a more suitable relief. Since, in the present case, the claimant had worked as daily rated job of water boy in the bank, regularization of the service is not an appropriate relief.

Considering the facts and circumstances of the present case and keeping in view of long service of 18 years which the claimant did with the management and prolonged litigation faced by the claimant, lump-sum compensation of Rs. 7,00,000/- (Rupees Seven Lakhs Only) to the claimant is considered an appropriate relief in lieu of reinstatement. Accordingly, a lump-sum compensation of Rs. 7,00,000/- (Rupees Seven Lakhs Only) is awarded to the claimant in lieu of reinstatement and back wages. The management is directed to pay the said amount within two months from the date of publication of this Award, failing which the amount shall carry interest @ 8% per annum from the date of the Award till its realization.

A copy of this Award be sent to the Appropriate Government for notification under Section 17 of the Industrial Disputes Act, 1947. The file be consigned to the Record Room.

Dated 01.07.2026

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