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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 23<sup>rd</sup> April, 2026*  
*Date of Decision: 07<sup>th</sup> July, 2026*  
*Uploaded on: 07<sup>th</sup> July, 2026*

+ W.P.(C) 8492/2005

STATE BANK OF INDIA

.....Petitioner

Through: Mr. Rajiv Kapur, SC with Ms. Riya  
Sood and Mr. Akshit Kapur, Advs.

versus

UMED SINGH

.....Respondent

Through: Mr. Romy Chacko, Sr. Adv. with Mr.  
Vikrant Yadav, Advs.

**CORAM:**  
**HON'BLE MS. JUSTICE SHAIL JAIN**

**JUDGMENT**

**SHAIL JAIN, J.**

1. The present Writ Petition under Articles 226 and 227 of the Constitution of India has been filed by the State Bank of India (*hereinafter referred to as the "Petitioner Bank" or "SBI"*) assailing the Award dated 13.12.2004 passed by the Learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi (*hereinafter referred to as "the Tribunal"*) in Industrial Dispute No. 107/1997.

**BRIEF FACTS**

2. The brief factual matrix, as borne out from the record, is that the Petitioner Bank is a statutory corporation constituted under the provisions of



the State Bank of India Act, 1955 and carries on the business of banking through its various branches across the country. The present dispute arises from the functioning of the Ajmal Khan Road Branch, Karol Bagh, New Delhi.

3. It is the case of the Petitioner Bank that the concerned branch, being situated on the first and second floors of a building, did not have an adequate arrangement for water supply and, accordingly, during the period from 06.07.1994 to 31.05.1995, the Respondent, who was residing in the vicinity of the branch, used to supply water to the branch premises. According to the Petitioner, the Respondent used to submit monthly bills for such supply and payments were made through Banker's Cheques on a per-bucket basis. It is further stated that on certain occasions, the Respondent was reimbursed actual conveyance expenses incurred by him for delivering urgent papers, letters and documents whenever such necessity arose.

4. The Respondent, however, disputes the aforesaid position and claims that he had in fact been engaged as a Messenger at the Ajmal Khan Road Branch with effect from 06.07.1994 and had continuously discharged duties assigned to him till 31.05.1995. According to the Respondent, although payments were reflected in the form of water-supply bills, he was, in substance, performing duties ordinarily associated with a Messenger, including delivery and collection of cheques, service of urgent correspondence and other outdoor assignments. It is further his case that his services came to be terminated with effect from 01.06.1995 without issuance of notice, payment in lieu thereof or payment of retrenchment compensation, as contemplated under the Industrial Disputes Act, 1947 (*hereinafter referred to as the "ID Act"*).



5. Aggrieved by the alleged termination of his services, the Respondent raised an industrial dispute before the Assistant Labour Commissioner (Central), Delhi. Since the conciliation proceedings failed to culminate in a settlement between the parties, a failure report came to be submitted to the Ministry of Labour, Government of India. Pursuant thereto, the Central Government, vide Letter No. L-12012/55/96 IR-(B-I) dated 10.07.1997, referred the following dispute for adjudication before the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi:

*"Whether the action of the management of SBI in terminating the services of Sh. Umed Singh w.e.f. 1.6.95 is just and fair? If not to what relief the concerned workman is entitled".*

6. The said reference was thereafter registered as Industrial Dispute No.107/1997 before the Tribunal. Upon completion of proceedings, the Tribunal passed the impugned Award dated 13.12.2004, which forms the subject matter of challenge in the present writ petition.

### **SUBMISSIONS ON BEHALF OF PETITIONER**

7. Learned counsel appearing on behalf of the Petitioner Bank has advanced the following submissions in support of the present Writ Petition:

- i. It is submitted that no relationship of employer and employee ever existed between the Petitioner Bank and the Respondent. According to the Petitioner, the Respondent was never engaged as an employee of the Bank and the payments made to him were confined to supply of water on a per-bucket basis and reimbursement of actual conveyance expenses incurred for delivery of urgent documents on certain occasions. It is urged that no wages or salary were ever paid and the Tribunal therefore erred in treating



the Respondent as a workman under the ID Act.

**ii.** It is further submitted that the Respondent was never appointed in accordance with the prescribed recruitment procedure and that the Branch Manager lacked authority to make any appointment to the staff of the Bank. It is contended that the Respondent was neither appointed against a sanctioned post nor through the competent appointing authority and, consequently, no valid contract of service ever came into existence.

**iii.** Learned counsel submits that the documents relied upon by the Respondent merely reflect occasional transactions relating to supply of water and reimbursement of actual conveyance expenses and do not establish continuity of service. It is further contended that in the absence of a valid employer-employee relationship, the provisions of Section 25-F of the ID Act are inapplicable.

**iv.** It is further argued that the Respondent has failed to establish completion of 240 days of continuous service as required under Section 25-B of the ID Act. Reliance is placed upon *Surendranagar District Panchayat v. Jethabhai Pitamberbhai*, (2005) 8 SCC 450 and *State of M.P. v. Arjunlal Rajak*, 2006 2 SCC 711 to contend that the burden of proving such service lies upon the workman.

**v.** It is contended that even assuming completion of 240 days, the same by itself does not confer any right to regularization or permanence in service. Reliance is placed upon *R.N. Nanjundappa v. T. Thimmiah & Anr.* is reported as (1972) 1 SCC 409 ; *Mahendra L. Jain & Ors. v. Indore Development Authority & Ors.* is reported as (2005) 1 SCC 639 ; *State of Karnataka & Ors. v. Umadevi & Ors.* is reported as (2006) 4 SCC 1 and *National Fertilizers Ltd. & Ors. v. Somvir Singh* is reported as (2006) 5



*SCC 493* to contend that an illegal appointment cannot be regularized and that regularization cannot be adopted as a mode of recruitment.

vi. Lastly, it is submitted that the Tribunal travelled beyond the scope of the reference and the relief sought, by granting regularization despite the absence of any sanctioned post. It is further contended that such a direction amounts to permitting an unconstitutional back-door entry into public employment in derogation of Articles 14 and 16 of the Constitution of India.

### **SUBMISSIONS ON BEHALF OF RESPONDENT**

8. *Per contra*, learned counsel appearing on behalf of the Respondent/Workman has opposed the present Writ Petition and advanced the following submissions in support of the impugned Award:

i. Learned counsel submits that the Tribunal, upon appreciation of the evidence on record, rightly concluded that the Respondent was functioning as a full-fledged messenger/peon and not merely as a water supplier. It is contended that the so-called water-supply bills were merely a device adopted to camouflage the actual nature of employment and that the relationship between the parties has to be determined on the basis of the duties actually discharged.

ii. It is further submitted that the Bank's own documents, including monthly payments and conveyance vouchers, establish that the Respondent was continuously discharging duties such as delivery and collection of cheques, service of urgent correspondence and other outdoor assignments ordinarily performed by a messenger. According to the Respondent, these documents sufficiently support the finding that he was functioning as a workman under



the ID Act.

**iii.** Learned counsel contends that the Respondent had completed more than 240 days of continuous service and that his services were terminated without notice, payment in lieu thereof or retrenchment compensation as required under Section 25-F of the ID Act. Reliance has been placed upon *Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation*, (1985) 4 SCC 71 to submit that statutory protection cannot be denied merely in the absence of a formal appointment order.

**iv.** It is further submitted that under Para 522(4) of the Sastry Award, as modified by the Desai Award and subsequent bipartite settlements, termination of service could not have been effected without prior notice. According to the Respondent, no such notice was issued and the termination therefore stood vitiated.

**v.** Learned counsel further submits that the Petitioner's plea regarding lack of authority with the Branch Manager, absence of sanctioned posts and surplus staffing cannot defeat statutory protection once the factum of service stands established. It is argued that the Bank cannot simultaneously claim surplus staff and justify entrustment of regular messenger duties to the Respondent.

**vi.** Lastly, it is submitted that the Tribunal granted a balanced relief by directing continuity of service without back wages and that such relief falls within the scope of the reference. It is further contended that the judgments relied upon by the Petitioner concerning illegal appointments and regularization are distinguishable and do not govern a case concerning violation of statutory safeguards under the ID Act.



Vii. Learned counsel for the Respondent has also placed reliance upon *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and Ors., (2013) 10 SCC 324; General Manager, Electrical, Rengali Hydro Electric Project, Orissa and Ors. v. Giridhari Sahu and Ors., (2019) 10 SCC 695; K.V. Anil Mithra and Anr. v. Sree Sankaracharya University of Sanskrit and Anr., (2022) 17 SCC 505; and State of Gujarat and Anr. v. Munta Aalamkhan Nurbeg, (2020) 20 SCC 625* in support of the aforesaid submissions.

### **ISSUES FOR CONSIDERATION**

*Whether the impugned Award dated 13.12.2004 passed by the Tribunal suffers from any illegality, perversity or jurisdictional error warranting interference in exercise of the supervisory jurisdiction of this Court under Articles 226 and 227 of the Constitution of India?*

### **ANALYSIS AND FINDINGS**

9. The Court has heard counsel for the parties and perused the material placed on record.

10. At the outset, it is necessary to note that the jurisdiction exercised by this Court under Articles 226 and 227 of the Constitution of India is supervisory and not appellate in character. This Court does not sit as a court of appeal over findings of fact returned by a Tribunal, nor does it re-appreciate evidence merely because another view is possible on the material on record. Interference is warranted only where the impugned award suffers from patent illegality, perversity, jurisdictional error or manifest misapplication of settled legal principles. Where the findings recorded by the Tribunal are founded



upon appreciation of evidence and reflect a plausible view, such findings do not warrant interference in exercise of writ jurisdiction. This position stands settled by the *Supreme Court in Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477*.

11. The Impugned Award dated 13.12.2004 was passed by the learned Presiding Officer, Central Government, Industrial Tribunal-cum-Labour Court-II, New Delhi in Industrial Dispute No. 107/1997, arising out of a reference made by the Central Government on the question whether the termination of the Respondent's services with effect from 01.06.1995 was just and fair and, if not, the relief to which he was entitled. Upon consideration of the material on record, the Tribunal held that the Respondent was not engaged merely for supply of water but was in fact performing duties of a messenger or peon, including delivery and collection of cheques, service of urgent correspondence and outdoor assignments; that the water supply bills were a device to camouflage the true nature of the engagement and the payments made through banker's cheques reflected wages for duties actually performed; that the Respondent had completed more than 240 days of service during the relevant period; and that the termination of his services with effect from 01.06.1995 without notice, wages in lieu thereof or retrenchment compensation was in violation of Section 25F of the ID Act and was neither just nor fair. On the basis of these findings, the Tribunal directed regularisation of the Respondent's services with continuity from 01.06.1995, without back wages. The operative portion of the Impugned Award reads as under:

*“ The reference is replied thus:-*



*The action of the management of the SBI in terminating the services of Sh. Umed Singh w.e.f. 1.6.95 is neither just nor fair. The workman applicant deserves to be regularised from 1.6.1995 without any back wages. **The management is directed to regularise the services of the workman without any back wages but with continuity of service from 1.6.1995 within one month from publication of the award. In case of default, the workman applicant will be entitled to 10% interest on the back wages that will accrue.***

*[...Emphasis Supplied]*

12. The foundational question which arises for consideration is whether the Respondent falls within the ambit of a "**workman**" under Section 2(s) of the ID Act. The applicability of the protective provisions contained in Sections 25B and 25F of the ID Act, as also the maintainability of the industrial reference itself, necessarily depends upon an affirmative determination of this issue.

13. Section 2(s) of the ID Act defines a "**workman**" as any person employed in an industry to perform manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment are express or implied. The definition is deliberately broad. Duties performed by a messenger or peon, involving physical movement, delivery of documents and outdoor operational assistance, plainly fall within the categories of manual and operational work contemplated under the provision. Equally significant is the fact that the definition expressly extends to implied contracts of employment. The absence of a formal appointment letter or written contract does not, by itself, exclude a person from the ambit of the provision. What remains material is whether labour was in fact rendered under the supervision and control of the alleged employer and whether remuneration, in whatever form, was received therefor.



14. It is against this statutory backdrop that the stand of the Petitioner Bank falls to be examined. The case before the Tribunal was that the Respondent was merely engaged as an independent water vendor supplying water at the branch premises and that conveyance charges paid on certain occasions represented reimbursement of expenses incurred for delivery of documents. The true nature of the engagement, however, cannot be determined from the description assigned to it by the Petitioner Bank but must be gathered from the substance of the relationship as disclosed from the material on record. The nomenclature assigned by the employer, the mode of payment adopted or the absence of formal documentation are not conclusive of the true nature of the relationship where the material on record otherwise discloses a relationship of employment. In *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, AIR 1957 SC 264, the Supreme Court held that the *prima facie* test for determining the relationship of master and servant is the existence of the employer's right to supervise and control the work, not merely in directing what work is to be done but also the manner in which it is to be done. The Court further held that the nature and extent of such control may vary from business to business and is incapable of precise definition, and that the correct approach is to consider, having regard to the nature of the work, whether there was due control and supervision by the employer. In *Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments*, (1974) 3 SCC 498, the Supreme Court held that no single test is determinative in deciding whether a relationship is one of employment and that payment on a piece-rate basis does not by itself negate the existence of an employer-employee relationship.



15. The Petitioner Bank has advanced a threshold submission that since the Branch Manager lacked authority under the applicable service rules to appoint subordinate staff, no relationship of employment could legally have come into existence between the parties. This submission proceeds on an erroneous equation between the validity of the mode of appointment and the factual existence of an employment relationship. In *Gujarat Electricity Board v. Hind Mazdoor Sabha, (1995) 5 SCC 27* the Court held that while examining the applicability of labour welfare legislation, the adjudicatory forum is required to examine the real nature of the relationship between the parties and not merely the form or description of the arrangement adopted by the employer. Similarly, in *K.V. Anil Mithra v. Sree Sankaracharya University of Sanskrit, (2022) 17 SCC 505*, the Supreme Court reiterated that merely because an appointment was not made in accordance with the prescribed procedure, a workman is not disentitled from claiming the protection of the ID Act. The question whether the engagement was effected through a constitutionally compliant process is distinct from the applicability of the protective provisions of the ID Act and bears upon the nature of relief ultimately to be granted. The effect of any illegality in the appointment on the question of relief shall be considered separately.

16. Examined in the light of these abovementioned principles and contentions, the documentary material placed on record clearly discloses the nature of the relationship between the parties. The conveyance vouchers produced before the Tribunal are records generated by the Petitioner Bank itself and bear the signatures and authorisation of the Branch Manager. These vouchers disclose that the Respondent was entrusted with duties including delivery of clearing cheques to Bank of Baroda, Sansad Marg and Bank of



India, Barakhamba Road; service of urgent correspondence to Chandralok Building, Janpath; visits to the Reserve Bank of India, Sansad Marg, a Government office at Rajendra Place and the SBI Overseas Branch; as well as work in the Record Department of the branch during prescribed working hours from 11:00 AM to 3:00 PM. Each voucher records the destination, the nature of the assignment and the conveyance charges reimbursed upon due authorisation by the Branch Manager. Significantly, the vouchers also bear the word “*Admitted*” alongside the signatures of the Branch Manager, indicating contemporaneous verification and approval of the claims in connection with duties performed for the branch. Delivery of clearing cheques and official correspondence to banks and public institutions necessarily involved handling of official banking instruments and correspondence under a degree of accountability and institutional trust wholly inconsistent with a casual vendor relationship. Work in the Record Department during fixed hours constitutes internal branch work. The vouchers further reflect that the assignments were directed and supervised by the Branch Manager, with specific destinations and conveyance expenses personally authorised by him. This reflects supervision and control not merely over the work assigned, but also the manner in which such duties were to be performed, as contemplated in *Dharangadhra Chemical Works Ltd. v. State of Saurashtra (supra)*. The vouchers do not reflect payments made pursuant to independently raised invoices or negotiated contractual consideration, but reimbursement of conveyance expenses incurred while carrying out duties assigned by the branch itself. The material on record does not disclose the characteristics ordinarily associated with an independent contractor undertaking work on his own account.



17. The stand of the Petitioner Bank that the Respondent was engaged exclusively for supplying water at the branch premises does not stand reconciled with its own contemporaneous records reflecting repeated outdoor assignments performed by the Respondent on official branch work during the relevant period. Both sets of activities could not realistically have been performed simultaneously throughout the working day by one person. The conveyance vouchers themselves record specific journeys on identified dates to different destinations. If such assignments were being regularly performed, the case of the Respondent functioning merely as a continuous water supplier becomes difficult to sustain on the Petitioner Bank's own record. The Petitioner Bank produced no vendor agreement, supply contract or other commercial documentation consistent with an independent vendor arrangement. A public sector institution maintaining systematic branch records would ordinarily produce such material if it existed. Its absence reinforces the finding that the arrangement between the parties was not that of a vendor and purchaser but of employer and employee. The Petitioner Bank also did not establish that any other person was discharging outdoor messenger duties at the branch during the relevant period, a circumstance noticed by the Tribunal which further supports the conclusion that it was the Respondent who was performing those duties. The circumstance that the Respondent may also have been entrusted with supplying water at the branch premises does not detract from the documentary material establishing that he was simultaneously performing duties ordinarily associated with a messenger under the supervision and control of the branch establishment.

18. The cumulative effect of the nature of duties performed, the continuity of engagement, the recurring pattern of payments and the degree of



supervision exercised by the Branch Manager sufficiently **establishes the existence of an implied contract of service between the parties and the Respondent's status as a workman** within the meaning of Section 2(s) of the ID Act. The findings returned by the Tribunal on this issue are well-founded on the documentary material on record, reflect a legally sustainable appreciation of the evidence and do not warrant interference.

19. The next question which arises for consideration is whether the Respondent had rendered continuous service so as to attract Section 25F of the ID Act. The principal contention of the Petitioner Bank is that the Respondent was engaged only intermittently for supply of water and occasional delivery of urgent papers and that the material placed on record was insufficient to establish completion of 240 days of service within the meaning of Section 25B of the ID Act.

20. Section 25B of the Act incorporates a deeming fiction intended to protect workmen whose employment, though lacking formal permanency, is in substance continuous and regular. Section 25B(2) of the Act provides that where a workman has not been in uninterrupted continuous service for one year, he shall nonetheless be deemed to be in continuous service for one year if, during the twelve calendar months preceding the relevant date, he has actually worked under the employer for not less than 240 days. The provision does not require strict proof of each individual working day; the focus is upon whether the material on record discloses continuity of engagement during the relevant period.

21. The expression "*actually worked under the employer*" has received a broad and purposive interpretation from the Supreme Court. In *Workmen of American Express International Banking Corporation v. Management of*



***American Express International Banking Corporation, (1985) 4 SCC 71***, it was held:

*".....This expression, according to us, cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. The learned counsel for the Management would urge that only those days which are mentioned in the Explanation to Section 25-B(2) should be taken into account for the purpose of calculating the number of days on which the workmen had actually worked though he had not so worked and no other days. We do not think that we are entitled to so constrain the construction of the expression 'actually worked under the employer'. The explanation is only clarificatory, as all explanations are, and cannot be used to limit the expanse of the main provision. If the expression 'actually worked under the employer' is capable of comprehending the days during which the workman was in employment and was paid wages-and we see no impediment to so construe the expression-there is no reason why the expression should be limited by the explanation. To give it any other meaning then what we have done would bring the object of Section 25-F very close to frustration. "*

22. The legislative focus is accordingly upon continuity of employment and receipt of wages, and not upon a mechanical computation of days of physical labour.

23. The scope and object of Section 25B of the ID Act were explained by the Supreme Court in ***Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443***, wherein it was held that it is not necessary for the workman to establish uninterrupted service for one whole year and that the deeming fiction embodied in Section 25B(2)



of ID Act was introduced to avoid a narrow or technical construction of continuous service following the 1964 amendment to the Act. The Supreme Court in *Mohan Lal v. Management of Bharat Electronics Ltd.*, (1981) 3 SCC 225, further clarified that the relevant date for computation is the date of termination and that the inquiry must proceed backwards over the immediately preceding twelve calendar months to ascertain whether the workman had rendered service for not less than 240 days during that period.

24. In the light of the aforesaid principles, determination of continuous service under Section 25B of the Act cannot rest upon an isolated day-to-day examination of the record detached from the overall nature of the engagement. Where the material on record discloses a substantially continuous engagement during the relevant period, completion of 240 days of service must be assessed on the cumulative effect of the duration of engagement, the nature of duties performed, the regularity of assignments and the continuity reflected from the contemporaneous record.

25. The burden of establishing completion of 240 days rests upon the workman. In *Surendranagar District Panchayat v. Jethabhai Pitamberbhai*, (2005) 8 SCC 450, the Supreme Court held that the workman is required to adduce evidence in support of his contention that he has complied with the requirements of Section 25B of the ID Act. The Supreme Court in the *State of M.P. v. Arjunlal Rajak*, (2006) 2 SCC 711, reiterated that the initial burden in this regard rests upon the workman.

26. In the facts of the present case, the Respondent's engagement commenced on 06.07.1994 and came to an end on 31.05.1995, the termination taking effect from 01.06.1995. The statutory computation period under



Section 25B of the ID Act would therefore extend from 01.06.1994 to 31.05.1995, within which the Respondent's entire tenure of engagement substantially falls. In the context of an engagement extending over nearly eleven months within a banking establishment, the duration and continuity reflected from the material on record cannot be ignored while assessing compliance with the requirement of 240 days under Section 25B of the ID Act.

27. At this stage, the issue is not whether each individual day of work is evidenced by a separate voucher or document, but whether the material on record, viewed cumulatively, establishes that the Respondent remained continuously engaged and was regularly utilised by the branch throughout the relevant period. As explained in *Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation*, (1985) 4 SCC 71, the expression “*actually worked under the employer*” is not confined merely to days of physical labour but extends to the period during which the workman remained in employment under the employer.

28. The nature of the engagement further fortifies the conclusion emerging from the record. Even according to the Petitioner Bank's own case, the Respondent was engaged, *inter alia*, for supplying water to the branch premises. Water supply to a functioning bank branch cannot be characterised as an intermittent, seasonal or contingent activity. It is a recurring operational requirement arising on every working day. An arrangement for supply of water to branch premises situated on the first and second floors over a period extending to nearly eleven months inherently indicates regular and recurring presence connected with the day-to-day functioning of the branch. Such a



requirement itself renders the theory of isolated or sporadic engagement difficult to sustain.

29. This conclusion is further supported by the contemporaneous conveyance vouchers placed on record. The vouchers disclose recurring assignments entrusted to the Respondent throughout the engagement period, including delivery of clearing cheques to different bank branches, carriage of urgent correspondence, visits to the Reserve Bank of India, attendance at the Zonal Office and work relating to the SBI Overseas Branch. These assignments recur across the relevant period without material interruption, the vouchers extending into May 1995 immediately preceding the discontinuance of the engagement. The vouchers are not private documents generated by the Respondent; they are contemporaneous internal branch records bearing the signatures and authorisation of the Branch Manager and generated in the ordinary course of the Bank's functioning. Each voucher records the assignment entrusted, the destination concerned and the conveyance amount sanctioned by the branch. The record further includes vouchers relating to work performed by the Respondent in the branch Record Department during specified working hours, indicating utilisation of the Respondent for internal branch functions in addition to outdoor assignments.

30. The documentary record before the Tribunal also reflects a consistent pattern of utilisation throughout the relevant tenure. The banker cheque payment entries disclose recurring monthly disbursements to the Respondent ranging from Rs.600 to Rs.828 from August 1994 till May 1995. These payments were made through the Petitioner Bank's official payment mechanism and authorised at the branch level without interruption. Read cumulatively, the recurring assignments reflected from the conveyance



vouchers together with the uninterrupted pattern of monthly payments disclose a structured and sustained utilisation of the Respondent for duties integrally connected with the day-to-day functioning of the branch throughout the period from July 1994 till May 1995.

31. Once the Respondent produced contemporaneous records originating from the Petitioner Bank's own branch, disclosing recurring assignments and regular payments during the relevant period, the initial burden resting upon him stood discharged. The Petitioner Bank, despite disputing continuity of service, did not produce any attendance, establishment or other branch records clarifying the duration and continuity of the Respondent's engagement. This omission assumes significance while appreciating the evidence on record, particularly since such records would ordinarily be maintained and retained by the Petitioner Bank in the regular course of its functioning.

32. It is also material that although the Petitioner Bank asserted that regular messenger staff was available at the branch, no material was produced identifying any such employee or showing that the outdoor assignments reflected in the vouchers were in fact being performed by anyone other than the Respondent during the relevant period. The absence of such material is a relevant circumstance while appreciating the continuity and nature of the Respondent's engagement.

33. Industrial adjudication under the ID Act cannot proceed in disregard of the practical realities of employment. The object underlying Section 25B of the ID Act is to ensure that the protection embodied in Section 25F of the Act is not defeated by an unduly technical or rigid approach to proof of continuous service, where the material on record otherwise discloses sustained and regular engagement during the relevant statutory period.



34. The tenure of engagement extending over nearly eleven months, the perennial nature of the work, the uninterrupted pattern of recurring assignments reflected from the conveyance vouchers across every month of the engagement, the monthly banker cheque payments from August 1994 through May 1995, the absence of any other person performing these duties at the branch during this period, and the complete failure of the Petitioner Bank to produce any rebuttal evidence from records exclusively within its possession taken cumulatively sufficiently establish that the Respondent is shown to have rendered service **meeting the statutory requirement of 240 days** within the twelve calendar months preceding the termination of his engagement on 01.06.1995. The finding of the **Tribunal on this issue is founded upon a proper appreciation of the material on record and warrants no interference.**

35. The Petitioner Bank further contended that Section 25F of the Act was inapplicable on the ground that the Respondent had not been appointed through a regular recruitment process or against a sanctioned post. However, the Respondent having been found to be a workman who had rendered continuous service within the meaning of Section 25B of the Act, the discontinuance of his engagement attracted the requirements of Section 25F of the ID Act.

36. Section 2(oo) of the ID Act defines retrenchment broadly as termination of the service of a workman for any reason whatsoever, except in situations specifically excluded under the provision. The discontinuance of the Respondent's engagement on 01.06.1995 did not fall within any such exclusion and therefore constituted retrenchment within the meaning of Section 2(oo), thereby attracting Section 25F of the Act.



37. Section 25F of the ID Act prescribes certain conditions precedent to the retrenchment of a workman who has been in continuous service for not less than one year, including a workman deemed to be in continuous service by virtue of having worked for not less than 240 days within the meaning of Section 25B of the Act. The provision mandates: (i) one month's notice in writing indicating the reasons for retrenchment or wages in lieu thereof; (ii) payment of retrenchment compensation equivalent to fifteen days' average pay for every completed year of service; and (iii) service of notice upon the appropriate Government in the prescribed manner. The mandatory nature of these requirements is well settled. In *Anoop Sharma v. Executive Engineer, Public Health Division No. 1, Panipat, (2010) 5 SCC 497*, the Supreme Court held:

*"We have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Sections 25-F(a) and (b) has the effect of rendering the action of the employer as nullity and the employee is entitled to continue in employment as if his service was not terminated."*

38. Examined in the light of the aforesaid requirements, the material on record discloses that no notice in writing was issued to the Respondent prior to the discontinuance of his engagement on 01.06.1995, no retrenchment compensation was paid and no notice was served upon the appropriate Government in the prescribed manner. The mandatory requirements prescribed under Section 25F of the Act were thus not complied with. The finding returned by the Tribunal that the **discontinuance of the**



**Respondent's engagement was effected in violation of Section 25F is borne out from the material on record and does not warrant interference.**

39. The Tribunal has rightly held that the Respondent was a workman and that his services were retrenched in violation of the mandatory requirements prescribed under Section 25F of the ID Act. However, it committed an error in granting the consequential relief of regularisation and permanent absorption. The dispute referred for adjudication concerned the legality of the termination of the Respondent's engagement and the consequential relief arising therefrom. Mere completion of 240 days of service or non-compliance with Section 25F of the ID Act does not, by itself, confer any vested right to regularisation or permanent absorption in service. In *Secretary, State of Karnataka & Ors. v. Umadevi*, (2006) 4 SCC 1, the Constitution Bench held that courts cannot ordinarily direct regularisation or permanent absorption of persons engaged *de hors* the constitutional scheme of public employment and without following the prescribed recruitment process. The Petitioner Bank, being an instrumentality of the State within the meaning of Article 12 of the Constitution, is required to make appointments in accordance with the prescribed recruitment framework. The material on record does not disclose the existence of any sanctioned post against which the Respondent was engaged or that the engagement was preceded by any recognised recruitment or selection process.

40. The Tribunal, however, proceeded to direct regularisation of the Respondent's services with effect from 01.06.1995 even though no specific relief seeking regularisation or permanent absorption had been claimed by the Respondent in the industrial dispute. In doing so, the **Tribunal erred** in treating reinstatement consequent upon an illegal termination as equivalent to



regularisation in service. While reinstatement restores the workman to the position held prior to termination, regularisation confers permanent status in service. The direction of regularisation, in the absence of any specific claim for such relief and **beyond the scope of the reference**, therefore exceeded the limits of the Tribunal's adjudicatory jurisdiction.

41. Learned counsel for the Respondent placed reliance upon *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.)*, (2013) 10 SCC 324; *General Manager, Electrical, Rengali Hydro Electric Project, Orissa v. Giridhari Sahu*, (2019) 10 SCC 695; *K.V. Anil Mithra v. Sree Sankaracharya University of Sanskrit*, (2022) 17 SCC 505; and *State of Gujarat v. Munta Aalamkhan Nurbeg*, (2020) 20 SCC 625. The said decisions, however, arose in materially distinct factual contexts involving employees whose appointments were otherwise recognised or validly made. None of the aforesaid decisions concerned an engagement in a public sector establishment not preceded by any recognised recruitment process or involved a direction for regularisation in the absence of a sanctioned post or prescribed selection procedure. The said decisions therefore do not assist the Respondent on the question of relief in the facts of the present case.

42. In view of the aforesaid discussion, **the direction of regularisation contained in the impugned Award cannot be sustained.**

43. The question which then survives is with regard to the **appropriate consequential relief**. It is now well settled that reinstatement with continuity of service and back wages does not automatically follow in every case where termination is found to be in violation of Section 25F of the ID Act. In *Jagbir Singh v. Haryana State Agriculture Marketing Board*, (2009) 15 SCC 327, the Supreme Court recognised that, depending upon the facts and



circumstances of the case, award of monetary compensation *in lieu* of reinstatement may adequately meet the ends of justice.

44. In the present case, the Respondent remained engaged for a limited period of approximately eleven months between July 1994 and May 1995 through an engagement not preceded by any recognised recruitment process. More than three decades have elapsed since the discontinuance of the engagement and the Tribunal itself declined to award back wages. Having regard to the period and nature of the engagement, the complete non-compliance with Section 25F of the ID Act at the time of discontinuance, the considerable lapse of time and the limited nature of the illegality established, this Court is of the view that award of lump sum monetary compensation would constitute an appropriate consequential relief in the facts and circumstances.

### **CONCLUSION**

45. Accordingly, the direction of regularisation contained in the impugned Award is set aside and substituted with a direction to the **Petitioner Bank to pay to the Respondent a lump sum compensation of Rs.1,00,000/- towards full and final settlement** of all claims arising out of the discontinuance of his engagement. In determining the quantum of compensation, this Court has taken into consideration the duration of the engagement, the nature of duties performed, the lapse of more than three decades since the discontinuance of the engagement, the absence of any regular recruitment process, and the fact that the Tribunal itself declined to award back wages. The aforesaid amount shall be paid within a period of eight weeks from the date of receipt of a certified copy of the present judgment, failing which it shall carry simple



2026:DHC:5414



interest at the rate of 8% per annum from the expiry of the said period till realisation.

46. The writ petition is accordingly **partly allowed** in the aforesaid terms. All pending applications, if any, shall stand disposed of. There shall be no order as to costs.

**SHAIL JAIN**  
**JUDGE**

**JULY 07, 2026**  
*RM*