

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

NO. CGIT/LC/ R/86/2015

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Manish Chaturvedi,
21, Gandhi Road,
near Shalimar Garden above kidzee,
Thatipur, Gwalior (M.P.)**

Workman

Vs

**The Manager (HR),
ICICI Bank Ltd.,
HRMG Regional Office, A.B. Road,
Indore (M.P.)**

Management

(JUDGMENT)

(Passed on this 05th day of December, 2025)

As per letter dated 16/09/2015 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-12012/97/2015(IR(B-I))*** dt. 16/09/2015. The dispute under reference relates to:-

"1. Whether Shri Manish Chaturvedi is a workman as per definition under section 2(s) of the ID Act?"

"2. If so whether the action of the management of ICICI Bank Ltd. Indore in terminating the service of Shri Manish Chaturvedi w.e.f. 27.11.2014 is justified? If not, what relief for the workman is entitled to?"

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 appointed w.e.f., 27.09.2010 as Assistant Manager (Band II) Group, RBG and joined in Gwalior. He was disengaged on 27.11.2014 without any notice or compensation or enquiry on the charge of self-abandonment of the job by him infact, he was suffering from spinal pain and was under treatment at Gwalior from 12.08.2014, he was sanctioned medical leave w.e.f., 01.07.2014 to 31.07.2014, further medical leave from 01.08.2014 to 20.12.2014. He further applied for medical leave w.e.f. 21.10.2014 till he attains fitness which was not accepted. The management issued letters dated 11.11.2014 and 21.11.2014 directing him to report on duty, he was not in a position to report on duty, due to his bad health and management terminated his services on the ground of abandonment of his service which is unjust, illegal and arbitrary. He further stated that though he was employed in the supervisory capacity drawing wages more than Rs. 10,000/- per month and carrying out the Managerial, Supervisory and Administrative functions, he has the status of workman, defined under section 2(s) (iv) of the *Industrial Disputes Act, 1947*. The workman has prayed for holding aside his termination against the Act, he be reinstated with back wages and benefits.

The case of the management is mainly that firstly, he is not a workman as defined under section 2(s) of the Act because he has been working in supervisory and managerial capacity drawing monthly pay of Rs. 38,824/- per month, hence, his case is not cognizable by this Tribunal. **Secondly**, he did not report on duty after his medical leave was refused on the ground of illness which he could not substantiate. Hence, taking that he has abandoned his services, he was terminated from service. Management has thus requested that the reference be answered against the workman.

In his rejoinder the workman has mainly reiterated his allegations taken earlier.

In evidence, the workman has filed his affidavit as his examination-in-chief, he has been cross-examined by management. He has filed and proved documents which are his letters to Regional Labour Commissioner, letter to Dheeraj Reddy of management Bank, medical certificates, offer of appointment, pay certificate, his another

letter dated 14.08.2014 to Dheeraj Reddy of management Bank, pay slip of April-December, 2014, three letters of management to show cause, which are Ex-W/1 to W12, are referred to as and when required.

Management has filed affidavit of its witness Kapil Dev Singh as his examination-in-chief. He has been cross-examined by workman side. Management has filed and proved documents job offer, pay certificate, letter dated 21.11.2004 regarding termination, pay slip for June, 2014, Ex-M/1 to M/4, to be referred to as and when required.

I have heard argument of Learned Counsel for workman Mr. Arun Patel and Mr. Janu Rajak, Learned Counsel for the management Bank. Management has filed written submission also which are part of record. I have gone through the record as well.

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

- 1) ***Whether Manish Chatturvedi, applicant is the workman as defined under section 2(s) of the Act?***
- 2) ***Whether termination of service of the workman, Manish Chatturvedi is justified in law?***

Issue No.1,

The main argument from management Bank on this issue is that the workman himself has admitted that he was appointed and working in managerial cadre, he was getting Rs. 38,824/- salary. He also admits that he worked in supervisory capacity hence, he is not a workman as defined under the Act.

Learned Counsel for workman has submitted that only name and designation is not a determining factor for deciding whether the person is a workman under section 2(s) of the Act or not.

"2(s) "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in

connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or*
- (ii) who is employed in the police service or as an officer or other employee of a prison, or*
- (iii) who is employed mainly in a managerial or administrative capacity, or*
- (iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."*

Learned Counsel for Management has relied on judgment of Hon'ble High Court of Bombay in the case of Union Carbide (India) Ltd. V.s. Ramesh Kumbla and Others reported in MANU/MH/0073/1999 and another judgment of the same High Court in the case of Union Carbide (India) Ltd. V.s. D. Samuel and Others reported in MANU/MH/1713/1998. In these two cases, after analyzing the judgment of various High Courts and Hon'ble Supreme Court, the Single Bench of Hon'ble Bombay High Court has summarized the principles on the basis of which it is to be decided whether the Workman is in supervisory capacity or not. These tests mentioned in **Para 34 and 35** of the Judgment are being reproduced as follows:

Para-34. In so far as the Apex Court is concerned, some of the tests laid down are:

- (1)** Designation is not material but what is important is the nature of work.
- (2)** Find out the dominant purpose of employment and not any additional duties the employee may be performing.
- (3)** Can he bind the Company/employer to some kind of decisions on behalf of the Company/employer.
- (4)** Has the employee power to direct or oversee the work of his subordinates.
- (5)** Has the power to sanction leave or recommend it; and

- (6) Has he the power to appoint, terminate or take disciplinary action against workmen.

Para-35. From the judgment of this Court and the other High Courts some of the tests apart from what the Apex Court has stated are:

- (a) Whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not;
- (b) Does the employee have powers of assigning duties and distribution of work;
- (c) Can he indent material and distribute the same amongst the workmen;
- (d) Even though he has no authority to grant leave does he have power to recommend leave;
- (e) Are there persons working under him;
- (f) Has he the power to supervise the work of men and not merely machines;
- (g) Does he mark the attendance of other employees;
- (h) Does he write the confidential reports of his subordinates.

Now coming to the evidence on this issue, in light of the settled proposition as referred to above, it comes out that in his statement of claim, the workman alleges that he was in service of the management Bank as Assistant Manager. He further alleges in para 4 of the statement of claim that though employed in a supervisory capacity and drawing Rs. 10,000/- per month also carrying out Managerial, Supervisory and Administrative functions sometimes, he was a workman under section 2(s) (iv) of the Act. He further pleads that the work in Bank was is of layer upon layers of checkers and taking his heartily supervision. He also alleges that to detect faults, assigning duties, distribution of works, sending reports, making arrangements for the business of the Bank with support of employees on contract basis does not exclude him from the category of workman under the Act. In his affidavit as his examination-in-chief, he states against his

allegations/pleadings and states that he did not have any managerial or supervisory rights and used to do clerical job, he did not have any power to take disciplinary action or to punish any employee, he further denies in his cross-examination that employees used to report him in Ex-W/1, which has been filed and proved by the workman himself. He has mentioned the employees who used to report to him though, he has denied this document in his cross-examination but it has been filed by him only and proved by him. Hence his, this statement on this issue cannot be relied upon **firstly**, it is against his pleadings and **secondly**, it is against Ex-W/1 as referred to above. On the other hand, the management witness has corroborated this case that the workman worked in a supervisory and managerial capacity, hence, in light of these facts, workman is held not a workman as defined under section 2(s) of the Act and the issue is answered accordingly.

Issue No. 1 is answered accordingly.

Issue No. 2,

The case of the workman is that he become sick and applied for leave which was sanctioned by management Bank up to 20.10.2014, he could not recover till date hence, again applied leave on medical grounds from 21.10.2014 till fitness which was not accepted and he was treated absenting himself wilfully from his work place without getting any leave sanctioned. His case is that he was transferred to another place during this period where he could not join due to his illness and management terminated his services treating him wilfully absent. Case of the management is that leave after 20.10.2014 was not sanctioned to him because there was no leave in his leave account. He was issued a show cause notice on 11.11.2014 and 21.11.2014 regarding his continuous unauthorized absence. These notices have been filed and proved by the workman himself as Ex-W/8 and W/9. It is thereafter, he was terminated from services by management on 27.11.2014, the management side has referred to terms and conditions mentioned in job offer which he accepted. These conditions mentioned that his services will be liable to be terminated in event of breach of rules and regulations of the Bank as applicable or may be applicable from time to time, this is one of the condition for termination of employment when the workman had already exhausted

of the leave which has accrued in his account and still was not reporting on work for some medical reasons and also there is no certificate which was filed by the workman before the management or even before this Tribunal to show that in opinion of the doctor treating him, the workman was so sick that he required bed rest even after 20.10.2014. The action of management in terminating his services is perfectly justified in law and his terms of appointment to which he had accrued and joined the services of the Bank. Hence, in light of above discussion, action of management Bank in terminating the services of workman Manish Chaturvedi is held justified in law.

Issue No. 2 stands answered accordingly.

No other point was pressed.

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

AWARD

- ***“Mr. Manish Chaturvedi is not a workman as per definition of section 2(s) of the Act.***
- ***The action of management Bank in terminating the services of Mr. Manish Chaturvedi from 27.11.2014 is justified.***
- ***Mr. Manish Chaturvedi is held entitled to no relief.”***

No order as to cost.

DATE:- 05-12-2025

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**