



INTELLIGENTSIA Vs INTELIGENTSIA In Indian politics

India has to take pride of being the largest democracy in the world, ruled by the people for the people elected by them. Politics was once considered as a sacred religion when the politicians were leading an honest life with austerity. But unlike in the past we now see politicians surviving through their rhetoric trying to mislead the people, forgetting that the literacy level in India has gone up and that the people started thinking and judging the capacity of their representatives or leaders. As against 64.83 percentage a decade ago the literacy level in India has moved up to 74 percent as per the latest census and that 65 percentage of the population is under 35 of their age capable of judging themselves, where mere rhetoric or freebies will not work. The growing literacy, advanced technology, communication with the surge of youth have transformed India. As such any negative attitude or criticism will not go well with the youth who are globally net worked and well informed. In spite of various transformations taken place in India, it looks like that the country can be ruled only by a group of people under Divine Right theory.

The general election in the year 2014 saw the

new NDA government voted to power with a clear majority in the Lok Sabha, thereby ending the coalition politics the country had been witnessing during the last three decades. The story of Indian politics in the recent past had been a story of alliances when the major political party could not get clear majority in the Parliament. This has led to various scams of high magnitude. Democracy though successful in India could not root out corruption from the system. It depends up on the political and economic structure of the country as well as its culture and moral factors of the individuals. Corruption occurs when the political power is used to pursue wealth.

The poverty and economic problems the country now facing is there ever since the country attained freedom. The various governments came to power at the centre could not eradicate poverty fully. Resolving citizens problem is not only the duty of the centre as the state also has their role to play in eradicating the poverty and improving the living condition of the people through their effective distribution system. controlling the hoarding, checking the corruption and price rise, filling the vacancies, in various

areas. providing shelter etc. This situation has become part of India's history.

Every government came to power at the centre with appealing slogans such as, 'Jai Jawan and Jai Kissan', 'Garibi Hatao', 'Roti Kapda aur Makhain', etc. all trying to win the voters. But the people are still dying without food and shelter. The gap between the rich and poor are only widening. The present government came to power with their slogan of 'Acche Din', with programme of Swachh Bharath, Jan Dhan Yojana, Sukanya Samridhi Yojana, Suraksha Bhima Yojana, Skill India, Make in India; Digital India etc. The government is highly enthusiastic in implementing their policies and programme and the country had a lot of expectation from them who made a commitment of minimum government and maximum governance. The opposition demanded implementation of all policies, promises immediately. Unfortunately each time the government tried to bring out reforms, they are facing stiff resistance from the opposition parties not because the reforms are not suited for the country but for the sake of opposition. Exhibition of maturity among leaders has become part of history. Country has seen many wash outs of Parliamentary debate at the cost of the exchequer, forgetting that the parliament is the sanctum sanctorium in a democracy where proper sanctity and credibility need to be maintained. Any unruly behaviour created by the members are only a waste of time, money and energy.

Though the Prime Minister is having many dreams on the future of the country he seems to have lacking ground support as each of the cadre is airing their views in public nothing to do with the policies of the government only creating controversy, and marring the image of the government. The Prime Minister's inexplicable silence over the rhetoric by his own ministers and cadres makes the people to wonder about the intention.

While the government has an admirable foreign policy they have underperformed on various

promises made to the voters especially to the common man who is reeling under the price rise of essential commodities. Consecutive failure of the monsoon for the last couple of years also added to the misery. As far as farm sector is concerned there are suicides reported from many parts of the country due to the draught, lack of financial support, poor procurement policy of the government, fixation of support price etc. When 54.6 percent of the employment are from agricultural sector and that there has been a decline in the number of cultivators from 127.3 million to 118.7 million shows the indication of a shift from farm to non-farm employment.

The allegation that the government is favouring the corporate at the expenses of the common man is not fully correct as the government can move forward only by balancing the two, based on the principles of co-existence. When an ordinary worker wishes his child to get quality education, good employment and place in the society, the industry is the spring board generating employment and economic growth, to fulfill such dream.

The recent controversy is over the surgical strike made by the Indian armed forces in retaliation of Pakistan army's ambush into the Indian Territory killing our soldiers. Disbelieving the surgical strike the opposition demanded proof of strike knowing fully well that revealing the operation details is not in the national interest. They have also forgotten the fact that in all the efforts of the government in defending the country, political unity is required as in the past.

Whether in the past or present India has not changed the pattern of its democratic process unlike in other countries where a healthy convention and tradition is prevailing to prevent matter getting out of hand. India is yet to evolve in that direction. Indians do not send their representatives to parliament to watch them to disrupt it. Who is more intelligent? Whether ruling or opposition parties? Only the electorate can decide. ■

TWO DAYS BRAIN STORMING WORKSHOP AT CHENNAI

ON 20TH AND 21ST OF OCTOBER, 2016

A COMPREHENSIVE LOOK

AT THE FUTURE OF THE FEDERATION –

A ROAD MAP FOR TACKLING THE FUTURE CHALLENGES

The Federation has come a long way since its foundation in the year 1965. The Golden Jubilee of this great institution was celebrated during the year 2015 at Mumbai along with the General Council of the Federation in a grand manner and the occasion was utilized to rededicate ourselves to the cause of the trade union and also for protecting the interest of the common man who is the focal point in our banking sector. As a part of the regular exercise towards the inward debate and discussions about the environment in the trade union movement in comparison with the challenges that are appearing from time to time, the Federation has been conducting brain storming exercises for the top leaders of the Federation at various centers in order to draw appropriate plans for leading this great institution towards greater harmony and success. A similar brain storming workshop was held at Chennai on 20th and 21st October 2016 as a part of this exercise. Com.A.Krishnan, the President of the Circle Association (Chennai) extended a warm welcome to all the participants and briefly explained the details of the background of the programme.

2. Com.D.T.Franco Rajendra Dev, President of the Federation, in his opening remarks briefly covered the objective of the programme and outlined the approach of the programme and also introduced the guest speakers on the occasion. He emphasized the need for the trade unions to come together to save the Public Sector Banks and to nullify the efforts of the champions of the globalization from handing over the Public Sector units to private sector.

3. Com.Y.Sudarshan, the General Secretary spoke on the purpose of the present programme. He comprehensively dealt with the future vision of the

Federation through introspection and evaluation of past experience in relation to the changes that are taking place in the environment. He wanted that a comprehensive approach should be developed amongst the leadership of the Federation for strengthening both the circle associations and the Federation.

4. The workshop was conducted against the backdrop of looming threat from the government and corporates combine to steal the coveted and carefully nurtured public sector banks from the public by various backdoor methods. A “Gyan Sangam” was conducted by the Union Govt. with participation of all the Chief Executives of Public Sector Banks to devise various ways and methods for reducing the government equity and forming the autonomous body, the “Banks Board Bureau” to pave way for private individuals to occupy the chairs of Public Sector Banks. Simultaneously, the NPA levels of the PSBs are rising thereby affecting their profits. The defaulters are the large corporates from whom recovery process is extremely difficult.

5. The business of SBI has grown up by more than 76% since 2010, whereas the staff strength has come down by 15194. It has put enormous stress and strain on the operating functionaries of the bank. Likewise, in the name of increasing the “other income”, various cross selling initiatives are being thrust upon, leading to “Misselling”.

6. The younger generation in the bank who are well informed, tech savvy and technologically sound are expecting a working environment which is employee friendly and with a fair work-life balance. However,

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

the demands of the present day atmosphere in the bank has increased the attrition rate. Likewise, women employees are increasing in numbers at around 26% of the officers. They find it difficult to adjust their family responsibilities against the demands of the banks and the increasing work load.

7. It is against this background that the brain storming session was conducted to facilitate generation of suggestions and creative ideas and to find solutions to the problems and to ensure that the Bank and the Federation scales greater heights of glory in the days to come.

8. Hence, it was felt that the leadership has to plan for the next ten years ahead and draw road map for the organisation which would enable them to defeat the destabilizing forces, restoring the confidence of the members, ensuring a healthy work-life balance and involving the youth, especially women in the association.

9. The participants of the workshop had the privilege of listening to the thought provoking speeches of Dr. Vijay Bhaskar, MIDS, Dr. Gurunathan of XLRI and Dr.C.P.Chandrasekar, of Jawaharlal Nehru University. The thought provoking inputs given by the above personalities opened up new vistas and ideas for the participants. Dr.Vijay Bhaskar compared and analysed the growth of various sectors of the economy. The Service Sector, although expanded did not generate matching job opportunities. The manufacturing sector is dormant; the construction sector is booming and providing enormous employment and he outlined the possibilities available for the banks in this scenario. How, corporates were exploiting the labour force by employing apprentices in regular works as well as sourcing employees from aggregators. Hence, he insisted that the trade unions have responsibility to take care of this unorganized sector employees welfare also.

10. Dr.Gurunathan, explained the concept of HR and IR and as to how both are different from one another.

He said that when an employee is addressed individually and satisfied, the HR initiative succeeds and fails when it ignores and individual whose collective action becomes an Industrial relation issue. He went on to explain how the employees are being assessed with various methods and how the present day corporates fail to take notice of the average employee. He also insisted that there has been an assessment for the employees contribution and evaluation, although the banking sector by and large delivers through team work.

11. Dr.C.P.Chandrasekar, vividly narrated the story of banks and financial institutions since the days of East India Company till date. He explained how the banks were established by the British to safeguard and support their business interest in the country. The banks incorporated by Indians were by and large born out of national fervor to serve the country men. However, the savings thus generated were garnered either by the foreigners or business people. Thus, the common man as well as rural and agricultural sector remains neglected. To address this issue, the bank nationalization, although mooted since 1948, came in 1969 due to the efforts of Smt. Indira Gandhi. Various studies have proved and provided evidence of the enormous growth of economy due to nationalization.

12. After hearing the above, the presidents and general secretaries have expressed themselves about their views and expectations on various issues like Relationship with the Management at all levels, Unilateral actions and decisions on HR issues, Analysis of the CDS, its flaws, categorization of branches, manpower, planning, cross selling, pending monetary issues, issues of RMRO's and their conversion to generalist cadre, Compassionate Appointment, Working on Sundays and holidays sports persons issues and a host of other subjects confronting the officers at all the circles.

13. Later there was a brain storming session and seminar on how to attract and involve the younger

generation of officers and women officers in the movement to ensure their whole hearted participation at all levels.

14. Thereafter, the Presidents and General Secretary's participated in a SWOT analysis of their respective circles and contemplated for the need to strengthen the organisation at the grass root level to connect with membership.

15. The Federation had been providing unconditional and unqualified support to the management of State Bank of India. It is because of this co-operation, the bank could implement various technological initiatives without any outsider help, thus earning a strong place in India as well as abroad. The growth in business is enormous and we have outsmarted the private players in their own territory viz. Housing loans and Car loans. The contribution of our bank in implementing various government sponsored initiatives like Jandhan yojana, Mudra Loans and Stand up India speaks for themselves. The complete

reengineering and remodeling of our business module was implemented successfully due to our co-operation.

16. Despite this, many issues remain unresolved. The CDS, the non-filling of vacancies, opening of branches, recent categorization of banks' branches, cross selling of various products, ignoring our core business, etc., are urgent issues that need to be resolved.

17. The demographic composition of our members has changed due to the arrival young officers including large number of lady officers. The need to inculcate the trade union spirit in their minds and train them for taking over the future leadership needs immediate attention.

18. Hence, the Presidents and General Secretaries of AISBOF, after a two day's of Brainstorming Workshop resolved to take up various pending issues with the management. ■

CO-ORDINATION COMMITTEE OF AWARD STAFF AND OFFICERS' FEDERATION MEETING HELD AT MUMBAI ON 25.10.2016 ISSUES FOR URGENT INTERVENTION

A joint meeting of the Co-ordination Committee of All India State Bank Officers' Federation & All India State Bank of India Staff Federation was held at Mumbai on 25.10.2016, to discuss on various issues. The issues which are confronting them were shortlisted and after threadbare discussions, it was unanimously

resolved to bring the same to the notice of the Bank Management, for immediate intervention at the highest level. It was decided to request the Bank to immediately convene a joint meeting of both the Federations to discuss the above-referred issues to find an amicable solution to the satisfaction of all. ■

BENEFITS RELEASED ON ACCOUNT OF CNC AGENDA

Subsequent to our report as carried in the October issue of 'Officers' Cause' it is hereby informed that, the Entertainment expenses have been enhanced and the Bank has issued Circular

Vide e-Circular No. CDO/ P&HRD-PM/ 71/ 2016-17 dated 03.10.2016.

This is in view of the Federation's continued persuasion of the issue. ■

LET CUSTOMER SERVICE BE OUR MOTTO

**INDIVIDUAL HOUSING LOAN SCHEME (IHLS)
E-CIR NO.CDO/P&HRD/IR/68/15-16 DATED 6TH NOVEMBER, 2015**

Bank has not renewed the Group Insurance–Master Policy No. 72100069409 which expired on 14.06.2016. As a result of this SBI Life has disallowed the claims to the beneficiaries of deceased officers resulting unprecedented burden on the legal heirs of the deceased officer.

2. The officers and his family have been under the impression that the loan is covered under the Master Insurance Policy taken by the Bank. Else one could have taken an Insurance policy on his own and his legal heirs would have been protected against repayment of the outstanding in the loan

amount. As you are aware, repayment of the outstanding of the Home loan will drain out all the monetary benefit which the family gets on account of death of the bread winner. The families of the officers are now left in the lurch, for no fault of theirs. As such the Federation has taken up the issue with the corporate center requesting them to ensure that the burden is borne by the Bank as a special case and that the concerned are instructed to ensure timely renewals to avoid hardship to the family of officers in the event of the unfortunate death of the officers. ■

**WORKING ON SUNDAYS AND HOLIDAYS
FEDERATION CALLS FOR WORK-LIFE BALANCE**

The officers of State Bank of India who are the Bank's resources, have, over a period of time, contributed immensely and stretched themselves beyond imaginable limits, to ensure that the Bank grows in terms of business and achieves all the targets. It is because of the untiring efforts of our officers and staff that the Bank has excelled in all parameters and adopted itself to all the new initiatives and technology despite the severe constraints of staff shortage, huge retirements, etc.

2. The commitment levels of our officers are undoubtedly unquestionable. But the sad part of the story is that since many years our officers are being forced to work on almost all the holidays, 2nd and 4th Saturdays and Sundays, festival days, citing one reason or another. After a prolonged struggle we were able to get 2nd Saturday and 4th Saturday as holidays at the Industry level and with the approval of the RBI and the Government. To achieve this we had to sacrifice half-holiday of the other Saturdays. The prime objective of the additional holidays was

to enable the officers to have a healthy work life balance, which is conducive not only to the mental health of the officers but also for better output in their professional domain. Hence the officers are putting in a full day's work on the 1st and the 3rd Saturdays. But it is unfortunate, that some Controllers are forcing the officers to come and work on the 2nd and 4th Saturdays, Sundays and other Holidays too. This has deprived the officers of their personal and social life, thus defeating the very objective for which the 2nd and 4th Saturday offs were envisaged. Forcing them to sacrifice to 2nd and 4th Saturday and holidays as though it is a luxury doled out as a gratis to them is inhuman.

3. Federation have been representing this issue at all the CNC meetings that the Officers 'time' also has value and that they also have a family and children. They also need to spend time with their family to cater to their social commitments and have a work life balance as it rejuvenates the health of the officers and increases their productivity, else

BE TRUTHFUL, BE FEARLESS

they may burn out. The concept of "Week end" is a universal phenomenon, acknowledged and respected all over the world.

4. It is a fact that in all the circles, officers are invariably asked to attend office not only on holidays but also during festival days. Recently during the Dussera/Navarathri holidays many branches were required to be kept open for canvassing Home loans. Signatures of officers were obtained; some were even threatened with charge sheet in case they do not attend. This is not a onetime affair, but a 'round the year' routine, for Jandhan, Mudra, De-duplication, NPA recovery, Bank adalats, Home loans, quarter/half year/year ending work, audit, RFIA, cash loading for ATMs etc, including for conducting P-review meetings. With one excuse or another the hapless officers are forced to work and

now, with even greater fear of the CDs discretionary score. Controllers are vying with each other in calling officers on holidays.. Frustration levels have soared. Medical bills are increasing. Despite representation at the circle level and in all the CNC meetings and in our correspondence, nothing seems to work. Such, instructions have created an atmosphere of fear, compulsion and will have a demoralizing effect on the morale of the officers and spoil the industrial relations atmosphere and image of the bank.

5. As such Federation had requested the corporate center to convey to the circles and issue suitable communication to all controllers not to call officers on holidays, and Sundays and festival days to avoid Industrial relations irritations and embarrassment at the circle level.■

6TH TRIENNIAL GENERAL BODY MEETING OF SBIOA (KERALA)

The 6th Triennial General Body Meeting of kerala circle was held at Ernakulam, in Kerala on 22nd October, 2016.

2. Shri.P.Sreeramakrishnan, the Hon'ble Speaker of the Kerala Legislative Assembly was the Chief Guest and inaugurated the Conference. The dignitaries who were invited to the dais included Sri. S.Venkataraman, Chief General Manager of the Circle, Com. D.T.Franco Rajender Dev, President, AISBOF; Com. Y.Sudarshan, General Secretary, AISBOF; Sr.Vice Presidents of AISBOF and other office bearers.

3. The programme commenced with Prayer by Smt.Sambalakshmi. Com.Muralidharan, the General Secretary of the Circle Association in his welcome address covered extensively the current issues that are before the Association and the Federation including the issue of the Merger of Associate Banks.

4. The lighting the lamp to signify the

inauguration of the Conference was done by Sri. P.Sreeramakrishnan, Hon.Speaker, Kerala Legislative Assembly along with the dignitaries on the dais.

5. The occasion was utilized to distribute the Prizes to the winners of the Essay Competition conducted by the Circle Association.

6. Com.C.P.Krishnanandan, President of the Circle Association in his presidential address gave a detail account of the activities of the Circle Association and also the various organizational activities that are being undertaken by the Circle Association.

7. Shri.S.Venkataraman, the Chief General Manager of the Circle while addressing the members thanked the Circle Association for the opportunity given to him to address a large number of officers in the Circle who were present on the occasion. He also gave the details of the performance of the Circle which has recorded as number one position in various

parameters and acknowledged the efforts of the officers in achieving these results in the circle. He also placed on record the services rendered by the banking industry for the improvement of the life of the common man in the country. He wished that the entire officers' fraternity including that of the State Bank of Travancore when merged will be able to provide greater service through the commitment and dedication of the rank and file across the circle.

8. Com.D.T.Franco Rajendra Dev, President of the Federation appreciated the performance of the Circle association and their contribution to the growth of the Circle. He explained at length the predicament of the Public Sector Banks and systematic attempts by the champions of the globalization to destroy the Public Sector units and hand over the same to the Private Sector.

9. Com.Y.Sudarshan, the General Secretary, speaking on the occasion extended a warm felicitation to the Circle Association for their wonderful hospitality, love and affection towards the leadership of the Federation who could come in such a large number to participate in the wonderful 6th Triennial Conference. He also vividly explained the beauty of the nature in Kerala and was happy to see the beautiful land, the greenery and the roaring sea of the Kerala State. He explained at length the current issues that are to be tackled by the unions in the banking industry with particular reference to the ensuing salary revision, the need to go for a comprehensive Charter of Demands etc., He also referred to the efforts of the Federation to achieve 5 days week, the need to draw inspiration from the 7th Pay Commission

improvements etc., the need for merging the special pay with the regular pay, the resolution of the residual issues before taking up the regular negotiations on the charter of demand in particular the pending issues related to the superannuation benefits etc., the issues of the Pensioners viz., the D.A. neutralization, 50% of the last pay drawn as the basic Pension, the improvement of the Family Pension, the improvement in the payment of gratuity as per the revised ceiling in gratuity paid to the Central government employees etc., the obstacles that were created by the industrial lobby in particular the chamber of commerce in regard to the extension of the revised ceiling on gratuity to our members making us to wait till the amendment to the act takes place etc.,

10. Referring to the issues in State Bank of India he referred to the successful conclusion of the Model Transfer Policy, and the initiative of the Federation in resolving several pending issues before the Management.

11. He also appealed to all the members to work to maintain the dignity of officers in all walks of life. He appreciated the manner in which the Conference is organized in particular the contribution of huge volunteer force present in the conference hall.

12. Com.A.Jayakumar, the General Secretary of SBSU(K) and Com.Hariharan extended their warm felicitation on the occasion for the success of the conference.

13. Com.V.K.Ramachandran, proposed vote of thanks on the occasion. ■

WE USE 1% OF PROFITS FOR CSR ANNUALLY - CHAIRMAN SBI

The State Bank of India annually contributes around 1 percent of its profits to socially relevant and corporate social responsibility projects, such as on education, empowerment, financial inclusion and Swachh Bharat etc.

We have been working on all of these areas. For

instance, under Swachh Bharat, last year, we asked each of our 14 LHOs (Local Head Offices) to adopt one district and build toilets for girls in all schools in that district.

With respect to education, we are doing a project along side Oracle India, called D-Change. Under this

LET US BUILD A STRONG AND SELF RELIANT INDIA

programme, we go to schools and teach children how to use internet and computers for productive purposes.

Subsequent to the students being taught, we hold weekend classes where the students in turn teach their parents.

With the help of volunteers from SBI and Oracle, we provide vocational training in 117 Rural Self Employment Training Institutes.

In the past few years, we have trained almost 2,50,000 people, 49 percent of whom are either employed or run a business. We also give them small loans, if we feel that we can settle them in a good business.

In Karnataka, under the Gram Ujjwala scheme, we have donated one solar street lamp each to 212 villages.

Besides all of these, we have also donated a large number of ambulances and medical equipment. We have given ₹ 10 lakh to 35 people who were not able to afford heart surgeries.

Recently, we donated a van to the Indian Cancer Society. The van has an entire lab for detecting cancer, including space for general examination, a blood testing unit, a Pap smear unit and a mammogram unit.

We don't contribute the mandatory 2 percent because we are a statutory company created by an

Act of Parliament, the Companies Act does not apply to us. For a very long time, we have been using 1 percent of our profits for CSR activities. Even today, we continue to use 1 percent; especially because banks have been going through a lot of stress in the past few years. The Reserve Bank of India has told us to keep it at 1 percent. But, we are trying to increase the volunteering.

When we were doing social projects through the bank, the contributions were in small pieces and we could not really assess the impact. Now, we are doing this through the foundation; we are doing many of these projects in conjunction with others, and because the scope of the project becomes large, it is much easier to measure the impact. We started doing the impact measurement last year. We will have to wait for a while to understand what change we are making. Normally, when we get into a project, we decide on a goal and the number of people it needs to cover. If that goes well, we can extend the project. We don't need to disengage, but if we find that it is not working out the way we want, we will disengage and move to some other effort.

We recently made a one-time contribution to the Barasat District Hospital, Kolkata, for a radiation machine. There are other examples, too. Said the Chairman in an interview with the Business Line. ■

Source: Business Line-date: 24.10.16

SBI CHIEF URGES EMPLOYEES TO EMBRACE YOUNGER GENERATION

Smt. Arundhati Bhattacharya, Chairman of State Bank of India (SBI), urged its employees to change the perception about the country's largest public sector bank by attracting the younger generation. According to the Chairman, SBI is still perceived as a bank of the older generation where customers come for traditional banking activities of opening an account or withdrawing pensions.

"That has to change. We have a lot of products for the younger generation and each one of you

should be a banker to them rather than be mere accountants and cashiers," said the Chairman while at Bengaluru recently.

The Chairman has also told employees to push more people to use the bank's digital platform, which according to her, has been praised by banks such as Citi and Deutsche. "In a few years, many traditional jobs will be done by machines and bankers need to evolve from what they are doing," she said.

Bhattacharya also noted the SBI Foundation was

DUTY FIRST, RIGHT NEXT

established last year to carry out the bank's Corporate Social Responsibility (CSR) activities in a focused and dedicated manner, together

with partners on projects and not just give out money.■

Source: Times of India, Dt: 19.10.2016

Judicial Verdict

2016-II-LLJ-576 (P&H)
LNIND 2015 PNH 21608
IN THE HIGH COURT OF PUNJAB AND HARYANA,
Present:

Hon' ble Mr. Justice Rajiv Narain Raina

C.W.P. No. 10267 of 2012

4th December, 2015

Maghar Dass.....Petitioner

Versus

Industrial Tribunal Patiala and Others.....Respondents

Termination – Illegal Termination Re-instatement - The Industrial Disputes Act, 1947 - Section 25-F - The Constitution of India, 1950 (Constitution) - Articles 14 and 16 – Petitioner, daily wager, working for more than seven years with Respondent Department was terminated without following mandatory provisions of Act, 1947 Labour Court awarded compensation in lieu of reinstatement – Challenging award of Labour Court, Petitioner filed present writ petition – Whether award of Labour Court granting compensation in lieu of reinstatement of Petitioner sustainable -Held, plea that appointment of Petitioner was made in violation of scheme of appointments taken before Writ Court first time - if Plea not taken before Labour Court then it is not open to be taken before Writ Court for first time - Labour Court erred in applying high standards of Articles 14 and 16 of Constitution to employment of daily wagers– Daily wagers do not hold any civil posts in service of State – Jurisdictional facts of satisfying concept of 240 days satisfied – Lack of observance of procedural safeguards in provisions of section 25-F of Act, 1947 in breach - Termination of Petitioner ex-facie illegal and abinitio void - Award cannot be sustained when compensation of paltry sum has been granted to workman for illegal termination, same adds insult to injury – Award set aside Petitioner reinstated in service with back wages and continuity of service Petition allowed.

ORAL

Mr. RAJIV NARAIN RAINA, J

The learned Presiding Officer, Industrial Tribunal, Patiala, by his award dated 11.11.2011 had declined the relief of reinstatement and instead granted compensation of ₹ 40,000/- in lieu of reinstatement. The amount has been ordered to be paid within four months from the date of award failing which it will earn interest @ 6 % per annum till the date of realization.

2. The position on the admitted facts is that the petitioner- Maghar Dash served on daily wage basis as a Beldar with the Forest Department for 7 odd years from 1993 to October 1, 2000 when his services

were terminated without complying with the law in Section 25-F the Industrial Disputes Act, 1947 (for brevity 'the ID Act '). The Labour Court has applied the law in **Secretary, State of Karnataka and Others v. Uma Devi and others**, AIR 2006 SC 1806 : (2006) 4 SCC 1 LNIND 2006 SC 261 : (2006) 2 MLJ 326 : 2006-II-LLJ-722, to non-suit the petitioner on the ground that proper procedure has not followed while offering him employment.

3. Learned counsel for the petitioner submits that the Forest Department did not take the plea before the labour court that the appointment of the Maghar Dass was **de hors** the rules and in violation of the scheme of appointments to public service in Article 16 of the Constitution of India. If the plea

NEVER BEND BEFORE THE INSOLENT MIGHT

was not taken before the Labour Court in the pleadings then it is not open to be taken up for the first time in writ jurisdiction as ruled in **Harjinder Singh v. Punjab State Warehousing Corporation**, AIR 2010 SC 1116 : (2010) 3 SCC 192 LNIND 2010 SC 16 : (2010) 3 MLJ 127 : 2010-II-LLJ-277. The decision in **Secretary, State of Karnataka and Others (supra) v. Uma Devi and Others (supra)** has been explained by the Supreme Court in **Maharashtra State Road Transport Corporation Ltd. v. Casteribe Rajya P. Karmchari Sanghatana**, AIR 2009 SC 2656 : (2009) 8 SCC 556 : LNIND 2009 SC 1741 : 2009-IV-LLJ-286, that the principle laid down in **Secretary, State of Karnataka and Others v. Uma Devi and Others (supra)** does not apply to resolution of disputes before the Labour Courts and Tribunals. Moreover, engagement on daily wages is not against public posts and such engagements stand on no rule territory which method of appointments is permitted to the State to make them to meet exigencies of work as has been recognized in para 2 in **Secretary, State of Karnataka and Others v. Uma Devi and Others (supra) case itself**, the Supreme Court observing at the outset that "A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages.

4. The Labour Court, therefore, fell in error in applying the high standards of Article 14 & 16 of the Constitution of India to employment of daily wagers who do not hold civil posts in the service of the State.

5. In the present case, the jurisdictional facts are satisfied with respect to the satisfying the concept of 240 days and lack of observance of procedural safeguards in the provisions of Section 25-F of the ID Act in breach. The termination is **ex facie** illegal and **ab initio** void and the principles laid down by the Supreme Court in **Hindustan Tin Works Pvt. Ltd. v. Employees of Hindustan Tin Works Pvt. Ltd.**, AIR

1979 SC 75 : 1979 SCR (1) 56 (1979) 2 SCC 80 : LNIND 1978 SC 227: 1978-II-LLJ-474, would apply as reinforced by the Supreme Court in **State of U.P. v. Charan Singh**, 2015 (2) SCT 597 : (2015) 8 SCC 150 : LNIND 2015 SC 210 : 2015-II-LLJ-366, holding that in such a case it would not be appropriate to apply the law that reinstatement would not follow automatically to deprive the petitioner of his livelihood which is a facet of the right to life. In the presence of these noticeable flaws in the reasoning of the Labour Court which are fundamentally wrong, the award cannot be sustained when compensation of a paltry ₹ 40,000/- has been granted to the workman for illegal termination which only to add insult to injury. I have no doubt keeping in view the law laid down in **Harjinder Singh v. Punjab State Warehousing Corporation (supra) Anoop Sharma v. Executive Engineer, Public Health Division No. 1, Panipat (Haryana)**, (2010) 5 SCC 497 : LNIND 2010 SC 336 2010-III-LLJ-1 ; **Devinder Singh v. Municipal Council, Sanaur** AIR 2011 SC 2532 : (2011) 6 SCC 584 : LNIND 2011SC 406 : 2011- III-LLJ-1 ; **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D. Ed.) and Others**, (2013) 10 SCC 324 : LNIND 2013 SC 800 **Jasmer Singh v. State of Haryana and Another** (2015) 4 SCC 458 : LNINDU 2015 SC 5 and **Tapash Kumar Paul v. BSNL and Others**. 2014(3) SCT 106 : AIR 2015 SC 357 (2014) 15 SCC 313 : LNINDORD 2014 SC 5562, that the award does not deserve to be sustained. Consequently, the petition is allowed. The award is set aside. The petitioner is reinstated in service with back wages. He will take continuity of service as well. The back wages be calculated and paid to the petitioner within three months from the date of receipt of certified copy of this order, failing which it will earn penal interest @ 18% per annum till realization to ensure speedy compliance and not fan further litigation in execution etc. except appeal against this order, which is a right, and towards that end the reasonable period of three months is granted.

Petition allowed.

TIME AND TIDE WAIT FOR NONE

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DEARNESS ALLOWANCE

The Index Numbers for the quarter ended September 2016 are as under:

MONTH & YEAR	INDEX AS PER 2001 SERIES	CONVERSION FACTOR	INDEX AS PER 1960 SERIES
July 2016	280	4.63 x 4.93	6391.25
Aug 2016	278	4.63 x 4.93	6345.60
Sep 2016	277	4.63 x 4.93	6322.77
Total			19,059.62
Average =			19,059.62/ 3
			6353.20
Difference in excess of 4440 points			1913.20
D.A.paid for the previous quarter on (i.e. 455x4)			1820. 00
Difference			93.20
Increase in number of Slabs = 93.20/ 4 =			23.30

Accordingly, Dearness Allowance is payable to Officers on 478 (i.e. 455+ 23) slabs with effect from 01-11-2016 as against 455 slabs for the previous quarter. The rates worked out are as per the industry level scales upto Scale VII including SBI.

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