

AIBEA's

LEGAL NEWS

Q – 1 JAN – MARCH 2025

ALL INDIA BANK EMPLOYEES' ASSOCIATION

LEGAL NEWS
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JANUARY – 2025

APPOINTMENT

Pendency of Criminal Case – Petitioner had not been selected because of pendency of criminal case against him – Whether, Petitioner entitled to claim appointment in State Government job – *Held*, Petitioner already in Central Government Service – Criminal case was pending against him on date the vacancies were notified – When in pendency of criminal case employer justified in not appointing such incumbent – While exercising power of judicial review, the constitutional courts do not substitute their own decision in place of administrative decision – Two different public employers might have different views regarding suitability of a candidate – State Government could not be saddled with liability to decision taken by Central Government – Petitioner not suitable for appointment till pendency of criminal case against him – No *mala fide* on part of competent authority – Petition dismissed. [*Vishal Saraswar v. State of U.P*]

(SALIL KUMAR RAJ, J.)
2025-I-LLJ-129 (All)

Re-engagement – Less meritorious candidates appointed beyond sanctioned strength though terminated in pursuant to earlier order of Court but further appointed by impugned Government Order – Whether, such re-appointment was justified – *Held*, clear relation between previous recruitment, termination and action of taking them back – Such re-engagement would have been based on fresh recruitment in accordance with law – Action of Government could not be upheld when it intends to fill up more posts than posts available – Clear direction that appointment needs to be issued only for candidates in merit list – Re-engagement of beneficiaries without subjecting them to recruitment process – Re-entry amounts to backdoor entry against public policy – Re-engagement beyond sanctioned vacancy impermissible – Once said employees directed to be terminated not just to take them back – Government order, set aside – Petition allowed. [*G. Nagaraju v. Government of A.P.*]

(SUJOY PAUL, J.)
2025-I-LLJ-136 (Tel)

DENIAL OF MATERNITY BENEFITS

Condition of Contract – Maternity Benefits Act, 1961, Sections 5 & 27 – Maternity benefits denied by State Government to Petitioner-nurses as they were contractual employees, hence this petition – Whether, Petitioners were entitled to Maternity benefits – *Held*, by virtue of Section 27 of Act, the provisions of Act would prevail over contractual condition denying or offering less favourable maternity benefits – Reliance by Respondent on condition of Appointment and Posting Order to deny maternity benefits was untenable – Pending applications for maternity benefits directed to be considered in terms of section 5 of Act – Petition allowed. [*MRB Nurses Empowerment Association v. Principal Secretary*]

(K.R. SHRIRAM, CJI.)
2025-I-LLJ-114 (Mad)

DENIAL OF RETIRAL BENEFIT

Order of Recovery – Retiral benefits of Petitioner withheld on ground of inadmissibility of increment of existing basic pay of Petitioner – Whether, order of recovery issued against Petitioner, sustainable – *Held*, Petitioner enjoying such pay scale in terms of order of Director – Such order fixed neither withdrawn nor cancelled and is operative in field – Petitioner was not responsible for such pay fixation – Higher pay given to Petitioner for over long period – Order of recovery a day prior to retirement not acceptable – Objection with regard to inadmissibility of one increment of existing basic pay bad in eyes of law – Appeal dismissed. [*State of West Bengal v. Sri Kali Sadhan Bhattacharjee*]

(PRASENJIT BISWAS, J.)
2025-I-LLJ-214 (Cal)

DISMISSAL

Misconduct – Respondent dismissed from service for misconduct – Labour Court directed reinstatement of Respondent in service – Revision Application preferred by Petitioners rejected by Industrial Court – Whether, impugned order sustainable – *Held*, findings recorded by Labour Court appear to be self-contradictory – Charge of theft of cakes proved in enquiry – Labour Court while directing reinstatement ignored manner in which Respondent and union leaders demanding discussions – Creation of ruckus in lobby of five-star hotel in front of hotel's guests by employee serious misconduct – Staff of hotel not supposed to carry goods kept for sale to their homes without paying – Impugned order, set aside – Respondent could not be reinstated in service – Lumpsum compensation granted – Petition partly allowed. [*J.W. Marriott Juhu v. Nilesh Kanojia*]

(SANDEEP V. MARNE, J.)
2025-I-LLJ-205 (Bom)
LNIND 2024 BOM 829

REDUCTION OF PUNISHMENT

Inquiry Report – Employer challenged part of award of Tribunal Whereby punishment imposed upon workman reduced – Single Judge allowed such petition filed by employer and rejected petition filed by employee – Whether, impugned order, sustainable – *Held*, in absence of findings of inquiry officer's report, Tribunal could not have recorded specific finding with regard to findings of inquiry officer in its report which was not on record – Single Judge committed same error – Single Judge ought to remand matter to Tribunal – Impugned judgment, set aside – Appeals disposed of [*Rajkumar Sitaldas Keswani v. General Manager*]

(A.S. SUPEHIA, J.)
2025-I-LLJ-220 (Guj)

REGULARIZATION

Contractual Posts – Respondents sought benefit of permanency – Industrial Court allowed such complaints and directed grant of permanency – Whether, Respondent-employees could be regularized – *Held*, proposal for converting contract posts into regular posts was under consideration of State Government – Contract employees who were paid consolidated wages were brought on pay scales – Since State Government itself was considering proposal for converting contract posts into regular one, case of Respondent needs to be considered for grant of regularization by State Government – Impugned judgment modified – Petitions disposed of. [*State of Maharashtra v. Sunita Shankarrao Vhatkar*]

(SANDEEP V. MARNE, J.)
2025-I-LLJ-198 (Bom)

REINSTATEMENT

Denial of Back Wages – Workman sought reinstatement in service – Tribunal directed Bank to reinstate him with 50% back wages – Single Judge modified award to effect that workman not entitled to

back wages – Whether, workman entitled to back wages – *Held*, no reasons for denying 50% of back wages by Labour Court – When Labour Court order not challenged by employer Single Judge erred in modifying such award – Said modification order liable to be set aside – Award of Tribunal restored – Interference with pure findings of fact and re-appreciating of evidence impermissible by High Court – Even if no direction issued by competent authority equal pay for equal work applicable to temporary employees – Petition filed by Bank, dismissed – Petition filed by Workman, allowed. [*S.Saravanan v. Tamil Nadu Grama Bank*]

(J. NISHA BANU, J.)
2025-I-LLJ-12 (Mad)
LNINDORD 2024 MAD 2675

SELECTION

Appointment – Constitution of India, 1950, Artiles 14 & 16 – Petition filed by Respondent no. 1 for being unsuccessful in selection process – Single Judge held that Petitioner was eligible for appointment and same affirmed by Division Bench – Whether Single Judge and Division Bench of High Court were in error in treating the Respondent no. 1 as qualified for consideration and consequent appointment – *Held*, Respondent no. 1 appointed under Outsourcing Policy – No sanctioned post of Clerk existed when Respondent no. 1 first engaged in University – Stipulations in advertisement call for special requirement for marks to be secured for experience – Previous service rendered on sanctioned post has to be received for service rendered in order to be eligible to apply – Recruitment Rules bars aspirants from securing marks for experience gained from contractual or outsourced employment – Not open for University to deny marks on basis of technical procedural deviation – Respondent no. 1 could not be denied benefit of mark for experience merely because at time of appointment not appointed on sanctioned post – Articles 14 and 16 of Constitution read with preambular promise of securing social justice held that non-grant of mark for experience to Respondent no. 1 not legal – Impugned judgment warrants no interference – Appeal dismissed. [*Chaudhary Charan Singh v. Monika*]

(DIPANKAR DATTA, J.)
2025-I-LLJ-1 (SC)
LNIND 2024 SC 527

TERMINATION

Principles of Natural Justice – Service of Petitioner terminated on ground of misconduct by Respondent no. 6 – Whether, proceedings issued by Respondent no. 6 terminating Petitioner from service and canceling contract sustainable – *Held*, Petitioner was working on contract and his contract has been renewed year to year – Employee on contract could not be terminated without allowing hearing – No opportunity of hearing afforded to him – Impugned order suffered from violation of principles of natural justice – Impugned order, set aside – Petition allowed. [*SBTS Devi v. State of Andhra Pradesh*]

(SUBBA REDDY SATTI, J.)
2025-I-LLJ-154 (AP)

Unfair Labour Practices – Respondent-Management issued orders terminating services of Petitioners – Labour Court held that termination of Petitioners did not amount to unfair labour practices – Whether, permissible for employer to justify action of termination of employee effected without conducting enquiry – *Held*, where no enquiry held employer still has right to justify termination by leading evidence – Misconduct alleged in all termination letters appears identical – Open for employer to issue an innocuous order of termination without holding an enquiry and take risk of justifying such termination by leading evidence – Evidence of assault on Management witnesses clearly associated with termination letters – Respondent-Management justified action of termination of Petitioners – Management prevented from holding fair enquiry on account of atmosphere of terror created by Petitioners – Petition dismissed. [*Maruti Krishana Naik v. Advani Oerlikon Ltd*]

(SANDEEP V. MARNE, J.)
2025-I-LLJ-164 (Bom)

FEBRUARY 2025

ACCIDENT IN COURSE OF EMPLOYMENT

Leave on Loss of Pay – Persons with Disabilities (Equal Opportunities, Protection of Rights and Full participation) Act, 1995, Sections 47 and 72 – Respondents withheld wages of Petitioner for period when he was out of service due to accident in course of employment – As the period during which Petitioner was out of service was treated as leave on loss of pay, Petitioner filed this petition, seeking a direction to treat the said period as duty, to pay wages and also to grant due promotion – Whether, Respondents could be directed to treat such period as duty to pay wages – *Held*, the question of dis-entitling the Petitioner for any of the benefits for which the Petitioner is entitled to under provisions of Act 1995 on the ground of award of compensation towards loss of income by the Motor Accident Claims Tribunal does not arise – Compensation paid to Petitioner in terms of award towards injury suffered – No doubt about entitlement for wages for period he was forced to be out of service because of disability suffered by him for accident in course of his employment – Though Respondents aware of such disability but provided appropriate alternative employment after long time – Respondent could not be held responsible for payment of wages for non-joining of Petitioner after alternative employment provided – Impugned order, quashed – Petition partly allowed. [*K. Jagadeesan v. Managing Director, TNSTCL*]

(MUMMINENI SUDHEER KUMAR, J.)
2025-I-LLJ-329 (Mad)

BENEFIT OF LEAVE ENCASHMENT

Unauthorized Absence – Industrial Disputes Act, 1947, Section 33(c)(2) – For unauthorized absence, Petitioner-corporation denied benefit of leave encashment to Respondent-workman – Petitioner directed to arrears of leave encashment to Respondent – Whether, Respondent entitled to benefit of leave encashment being his right – *Held*, after making application for voluntarily resignation workman need to wait for three months for reply by Corporation – Respondent had not given response to communication addressed by Petitioner – As certificate below mark not disputed by Petitioner Corporation it could not be said that no pre-existing right therefore Application under Section 33(c)(2) of Act, maintainable – As per service regulation within period of 90 days Petitioner ought to send communication to Respondent – No departmental proceedings initiated against Respondent for unauthorized absence – Leave encashment akin to salary being right of employee without valid statutory provision could not be infringed by Petitioner – Petition dismissed. [*Ahmedabad Municipal Corp. v. Sadgunbhai Semulbhai Solanki*]

(M.K. THAKKER, J.)
2025-I-LLJ-442 (Guj)

Eligibility – Constitution of India, 1950, Articles 14, 15, 16 and 39A – Tribunal rejected claim of Petitioner for compassionate appointment on basis of being widowed daughter – Whether, Petitioner was eligible for Compassionate Appointment – *Held*, scheme for Compassionate Appointment applicable to Dependent Family Member – Even after her marriage she continued to be daughter of her deceased father – Women citizen could not be excluded for appointment on compassionate appointment basis on grounds of sex alone – No discrimination can be made in public employment on gender basis – Action of policy which deprives widowed daughter would run contrary to Article 14, 15, 16 read with 39A of Constitution – Widowed daughter stands on better footing than married daughter – Respondent could not decline merely because Petitioner being widowed daughter – Impugned judgment, quashed – Petition allowed. [*Punita Bhatt v. BSNL, New Delhi*]

(OM PRAKASH SHUKLA, J.)
2025-I-LLJ-251 (All)

DENIAL OF ALLOWANCE

Benefits of Settlement – Respondents-employees denied allowances attached to wage structure which extended to their colleagues – Tribunal after examining issue of cut-off date of settlement directed Appellant-Company to give benefits to them – Whether, Single Judge as well as Tribunal erred in granting benefits arising out of settlement – *Held*, terms of settlement applicable to permanent workmen who are employed in Company on cutoff date and still in employment – Respondents doing same work as their colleagues could not be denied allowances on principle of 'equal pay for equal work' – Respondents could not be discriminated on ground that settlement would not apply to them since they were not signatory to such settlement – They were appointed after settlement – Entitlement of allowances follows as necessary corollary to attached basic wage structure – No illegality in impugned order – Appeal dismissed. [*Hindustan Chemicals Company v. Cyanides and Chemicals*]

(A.S. SUPEHIA, J.)
2025-I-LLJ-273 (Guj)

DISMISSAL

Reinstatement – Disciplinary Authority on considering enquiry report passed order of dismissal against Respondent – Labour Court set aside order of dismissal and reinstated Respondent – Whether, Labour Court justified in interfering with punishment of dismissal – *Held*, Labour Court could not on sympathy alone while exercising power under Section 11A of Act, direct reinstatement and backwages, when the material on record was sufficient to hold Respondent was guilty of charges – Punishment of dismissal for misconduct cannot be said to be disproportionate – Labour Court was not justified in substituting order of dismissal to its own judgment, when it involved a serious case of theft, the nature of work which was entrusted to the respondent was a work of trust, the Labour Court could not have assumed that false charges are made in order to remove him from service, when there is no pleading or evidence whatsoever in this regard either in explanation to the charge-sheet or in the claim statement or in the evidence of Respondent – Labour Court has marshled the evidence as though it is criminal trial and on assumption, has come to *erroneous* conclusion that the charges were falsely framed against the respondent and the respondent has been discriminated and dismissal is highly disproportionate, which is totally contrary to the material on record – Labour Court was not justified in interfering with the punishment of dismissal – Petition allowed. [*Taj West End Hotel v. K. Venkatesh*]

(K.S. HEMALEKHA, J.)
2025-I-LLJ-292 (Kant)
LNINDORD 2024 KANT 10

Rejection of Approval – Application filed by Petitioner-management sought for approval of order imposing penalty of dismissal on Respondent-workman – Tribunal dismissed application for approval – Single Bench allowed application of Petitioner, however, Division Bench directed for re-decision of Single Judge – Whether, Tribunal rightly declined approval of order imposing penalty of dismissal on Respondent – *Held*, neither copies of documents forming basis of chargesheet nor report of audit team supplied to Respondent – Workman and members of raiding team not examined during enquiry – No list of witnesses sought to be examined by Petitioner supplied to Respondent – Non-supply of copies serious to Respondent was a serious abrogation of *jus naturale* – It is, therefore a clear case of no legal evidence at all recorded during the domestic enquiry – On basis of infirmities, Tribunal rightly held that enquiry stood vitiated – Respondent clearly deprived of fair opportunity to defend himself – Finding of guilt recorded against Respondent by Enquiry Officer, *perverse* – Tribunal correctly declined approval for dismissal – Petition dismissed. [*Hotel Corporation of India Limited v. Sudesh Kumar Julka*]

(GIRISH KATHPALLA, J.)
2025-I-LLJ-361 (Del)
LNIND 2024 DEL 9010

FIXATION OF SENIORITY

Permanent Absorption – Union representing workmen raised dispute sought for fixation of their seniority from date of their screening – Tribunal *vide* awards seniority directed to be fixed from date of screening for granting permanent absorption – Whether, impugned order sustainable – *Held*, initial appointment of workmen though on casual basis subsequently granted temporary status after undergoing screening test – Aspect of transfer though contentious issue would not have relevancy – Seniority for period prior to regular appointment could not be counted – Impugned awards could not be sustainable accordingly, set aside – Petitions allowed. [*Union of India v. General Secretary*]

(SANJAY KUMAR MEDHI, J.)
2025-I-LLJ-283 (Gau)

FIXATION OF WORKING HOUR

Wages – Minimum Wages Act, 1948, Section 14 – Respondent-Union raised demand for fixation of working hours 8-hours shift and overtime wages for 4 hours – Tribunal directed Appellant-Corporation to pay overtime to employees by assuming that that they had worked for 12 hours – Whether, impugned order, sustainable – *Held*, demand for working hours shift by Respondent-Union remained in state of flux – No shift of 8 hours in existence at time of raising demand – Necessary to prove that members of respondent-Union actually doing duties in 12 hours shift since long – Special allowance not been extended to other Department employee – Not proved that employees actually working for 12 hours – Tribunal *erred* in concluding that employees actually work for extra 4 hours – Section 14 of Act, not applicable – Impugned judgment, set aside – Application disposed of. [*Surat Municipal Corp., v. Sec., Sudhrai Majdoor Union*]

(A.S. SUPEHIA, J.)
2025-I-LLJ-261 (Guj)

INDUSTRIAL DISPUTE

Representative – Industrial Disputes Act, 1947, Sections 36(3) and (4) – Petition filed being aggrieved by order passed by Tribunal whereby application filed under Section 36(3) and (4) of Act by Respondent No. 1 has been decided against Petitioners – Whether, Petitioner and Respondents entitled to be represented by Officer of association of industries -*Held*, under Sections 36(3) and (4) of Act, no party to dispute shall be entitled to be represented by legal practitioner in any conciliation proceeding and as per Sections 36(3) & (4) of Act legal practitioner can appear with consent of other parties to proceedings and with leave of Labour Court – Petitioner and Respondent No.2 and 3 could not be represented through legal practitioner unless Respondent No.1 gave consent and leave granted – Respondent No. 1 wrongly filed an application under Sections 36(3) and (4) of Act – Impugned orders, quashed – Petitioner and Respondents entitled to be represented by Officer of association of industries and institution – Petitions allowed. [*Aditya Birla Real Estate Ltd v. Shramik Janata Sangh*]

(VIVEK RUSIA, J.)
2025-I-LLJ-409 (MP)

MATERNITY BENEFITS

Entitlement – Maternity Benefit Act, 1961, Section 27 – Petitioner denied of maternity benefit on ground that it is admissible to only regular employees – Whether, Respondents justified in not granting maternity leave benefits to Petitioner – *Held*, Section 27 of Act would override any agreement or contract of service found inconsistent with Act – Though Petitioner herself had given undertaking that to claim benefit apart from salary offered to her same in view of Section 27 of Act would not come in way – Petitioner would be entitled to maternity benefits in terms of relevant provisions of Act – Petitioner

directed to submit her claim for maternity benefit before Respondent No. 4 – Petition allowed. [*Sangeeta Kormel Yadav v. Union of India*]

(NELSON SAILO, J.)
2025-I-LLJ-288 (Gau)

PAYMENT OF GRATUITY

Immunity from Local Law – United Nations (Privileges and Immunities) Act, 1947 – Payment of Gratuity Act, 1972 – In application filed by Respondent no. 2 before Respondent no. 1 for determination of amount of gratuity notice for appearance issued to Petitioner-organization – Respondent no. 1 held Petitioner liable for payment of gratuity along with interest – Whether, Petitioner being immuned from laws in India exempted from Act, 1972 – *Held*, Petitioner being international organization granted immunities under Act 1947 – Petitioner immuned from various legal processes including from taxes – Immunity from local laws automatic and could be waived only at option of international organization – Unless Petitioner waives its immunity and agrees to apply Act, 1972 to itself said Act could not be mad applicable to it – Petitioner governed by specific terms and conditions of employment could not be governed by any other local laws – Respondent no. 2 having agreed to conditions of employment could not say Act 1972, applicable – Petitioner not amenable to jurisdiction of Courts in India under Act 1972 – Petition allowed. [*ICRI v. Controlling Authority*]

(T. MADHAVI DEVI, J.)
2025-I-LLJ-425 (TS)

POST-RETIRAL DUES

Interest for Belated Payment – Petitioner sought to release salary and post-retiral dues together with interest as per order of Court – Executive Officer declined to pay interest on belated disbursement of post-retiral benefits to Petitioner – Whether, Petitioner entitled to interest of such post-retiral dues – *Held*, culpable delay in paying petitioner's post-retiral benefits on Respondent's part – Inquiry report which did not hold Petitioner guilty of serious charge never placed before Court – After completion of inquiry no explanation to justify such delay – No explanation why inquiry not concluded before Petitioner's retirement – No employee should be allowed to retire with disciplinary proceedings unless compelling reasons – All dues paid with culpable delay inviting award of interest – No reason why papers routed each time by Commissioner and Executive Officer through the District Magistrate – Impugned order, quashed – Petitioner directed to be pay interest – Petition allowed. [*Pramod Kumar v. State of U.P*]

(J.J. MUNIR, J.)
2025-I-LLJ-339 (All)

PROVIDENT FUND DUES

Limitation – Employees Provident Funds and Miscellaneous Act, 1952, Sections 7-A and 14B – Tamil Nadu Provident Fund Rules, Rule 7(2) – Authority levied damages on employer for delayed remittance of Provident Fund dues and proceedings under Section 14B of Act was initiated – On appeal by employer, Tribunal observed that employer not willfully and deliberately withheld provident fund contribution, hence this petition – Whether, impugned order passed by Tribunal without jurisdiction – *Held*, order under challenge not assessment order made under Section 7-A of Act but order levying damages under Section 14-B of Act – Period of limitation under Rule 7(2) of Rules for preferring an appeal before tribunal was maximum period of 120 days – Employer preferred appeal with huge delay crossed maximum period of 120 days, hence Respondent no. 1 had got no authority to entertain appeal – Tribunal passed order in matter in which cause of action already been barred by limitation – Impugned order passed by Tribunal without jurisdiction – Though objection raised by Petitioner, impugned order not

stated anything about period of limitation – Appeal by employer barred by limitation – Impugned order, set aside – Petition allowed. [*EPFO v. Presiding Officer, EPFAT*]

(R.N. MANJULA, J.)
2025-I-LLJ-311 (Mad)
LNINDORD 2025 MAD 2

RECOVERY OF PAYMENT

Wrong Increment – Recovery notice issued to Petitioner-employee on ground that she had been wrongly given increment in pay on account of impugned circular – Whether, recovery could be validly made from Petitioner – *Held*, circular issued by Government to promote family planning programme – Ultimate object of government was to control birth rate and when person contributed to same cause while she was not in government service and subsequently joins same she would be entitled to such benefit for act of helping government – When excess payment made by employer by applying wrong principle such excess payment of emoluments not recoverable – Impugned orders, quashed – Petition allowed. [*Gori Saxena v. State of Madhya Pradesh*]

(SUBODH ABHYANKAR, J.)
2025-I-LLJ-459 (MP)

REGULARIZATION

Long Tenure of Employment – Petitioners sought for regularization – Whether, Petitioners could be regularized as similarly situated persons were regularized – *Held*, for recognized scheme of appointment there should be advertisement examination interview – *Ad hoc* or daily wage service for long number of years would not entitle employee to claim regularization when not working against sanctioned post – Petitioners could be considered for regularization by considering their long standing position in their respective cadres – Impugned proceedings issued by Respondent no. 4, set aside – Respondents directed to regularize services of Petitioners – Petition allowed. [*B. Suresh v. State of Andhra Pradesh*]

(K. MANMADHA RAO, J.)
2025-I-LLJ-433 (AP)

Retrospective Effect – Respondents sought regularization from date on which they have completed five years and 900 days instead of date from passing of resolution – Single Judge held that Respondents-employees entitled to be regularized in service from of completion of service of 5 years and 900 days – Whether, impugned order of Single Judge, sustainable – *Held*, Appellant-Corporation made Respondents permanent by order date by creating supernumerary posts – Entire controversy revolves around policy decision of appellant in regularizing respondents and other daily-wagers – Appellant adopting similar approach like previous regularized Respondents from date of passing of order – Appellant could not be compelled to create supernumerary posts with effect from retrospective date which was validly within domain of Appellant – Impugned order, set aside – Appeal allowed. [*Ahmedabad Municipal Corp. v. Prajapati Rohit P*]

(A.S. SUPEHIA, J.)
2025-I-LLJ-448 (Guj)

SETTLEMENT

Interim Award – Industrial Disputes Act, 1947, Sections 18(1) and 18(3) – Settlement between Union and Management sought to be pressed into service but rejected by Labour Court – Writ court directed Tribunal to pass interim award in terms of settlement in so far as the members of the 1st respondent Union are concerned – Whether, without passing test of fairness, Labour Court or Tribunal

entitled to pass interim award but it should be final conclusion on any dispute – Labour Court bound to test fairness of settlement in respect of all employees – No interim award could be passed which decides particular matter in respect some of workers – If settlement held unfair later one set would be bound by settlement under Section 18(1) of Act and other under Section 18(3) of Act which could not be allowed – Tribunal directed to go into entire issue and decide on fairness of settlement – Appeal allowed. [*Ranipet Labour Union v. Ranipet Roca Labour Union*]

(R. SUBRAMANIAN, J.)
2025-I-LLJ-471 (Mad)
LNIND 2024 MAD 6454

TERMINATION

Compensation – Industrial Disputes Act, 1947, sections 2(oo)(bb) and 25-F Industrial Dispute raised by Respondent-workman, a daily wager for his termination – Labour Court directed Appellant to reinstate workman – Single judge modified award by directing to pay lump-sum compensation, hence these appeals – Whether, impugned order sustainable – *Held*, from pay-slip evident that workman had worked for long years – Artificial break given in between despite there having continuous work – No documents placed on record having workman appointed by different Gram Panchayat – In absence of evidence adverse interference drawn – Labour court rightly held that workman appointed continuously therefore Section 2(oo)(bb) of Act would not be applicable and Section 25-F of Act violated – Lumpsum compensation awarded by Single Judge appropriate – No merit in enhancement contention by workman – Appeals dismissed. [*District Rural Development v. Hasmukhbhai Ramjibhai Solanki*]

(MAUNA M. BHATT, J.)
2025-I-LLJ-381 (Guj)

***Factum* of Employment –** Industrial Disputes Act, 1947, Section 25(F) – Application of Petitioner for adjudication of the dispute between the Petitioner and Respondents was dismissed by Labour court on ground that Petitioner could not prove the *factum* of his employment in the Respondent/department – Whether, Petitioner failed to prove *factum* of his employment with Respondent – *Held*, except for identity card, no other documentary evidence produced by Petitioner which could demonstrate that he had ever worked with Respondent – Identity card not valid – In list issued by department of daily wagers there was no mention of Petitioner's witness – *Factum* of employment, not proved – When Petitioner himself failed to establish that he was in employment of Respondent no adverse inference could be drawn against department – Witness of Respondent no.3 in specific terms denied employment of Petitioner – No question of violation of Section 25(F) of Act – No illegality in impugned order – Petition dismissed. [*Ashok Singh Tomar v. Forest Rang Officer*]

(MILIND RAMESH PHADKE, J.)
2025-I-LLJ-462 (MP)

Misconduct – Petitioner-Professor of Respondent-College was dismissed from service for misconduct – Whether, Respondent authority erred in dismissing service of Petitioner – *Held*, when there was a direction to the Disciplinary Authority to consider past service and previous conduct, the Disciplinary Authority ignored the same and imposed a capital punishment of dismissal on the verge of retirement of Petitioner – No purpose would be served by remitting the matter back to the Disciplinary Authority to reconsider the *quantum* of punishment – Therefore, considering the nature of allegation and charge, the extreme punishment of dismissal needs to be trimmed down by way of compulsory retirement and such punishment would do justice to all the quarters – As Petitioner has attained the age of superannuation, the Respondent is directed to pay all the monetary benefits and other attendant benefits – Petition partly allowed. [*Dr. S. John William v. Loyala College*]

(C. KUMARAPPAN, J.)
2025-I-LLJ-323 (Mad)
LNINDORD 2025 MAD 14

Unauthorized Absence – Service of Petitioner-employee terminated by Respondent-Management for unauthorized absence from duties – Labour Court upheld such termination order – Whether, Labour Court rightly upheld termination order – *Held*, when Industrial Dispute arises Tribunal required to decide such dispute therefore no fault in granting opportunity to Respondents to prove misconduct by adducing evidence – Petitioner never joined at place and absented from duties without permission thus termination order justified – Place of transfer had sufficient medical facilities – Workman assured that whenever vacancy arises his request for transfer to nearby place would be considered – No illegality in impugned order – Petition dismissed. [*M.P. Rashtriya Manganese M.S. v. Manganes Ore (I) Ltd*]

(VIVEK JAIN, J.)
2025-I-LLJ-300 (MP)

TERMINATION OF SERVICE

Notice – Petitioner-employee challenged order of termination issued by Respondent no.2 – Whether, Petitioner could be directed to be reinstated – *Held*, in serious case of bribery, conduct of inquiry before termination of temporary employee mandated – Respondents ought to have conducted inquiry putting Petitioner on notice – Impugned order, quashed – Matter remanded back to Respondents – Respondents directed to conduct disciplinary proceedings after giving due opportunity to defend – Petition disposed of. [*K. Karthick v. Director, Social Welfare Department*]

(L. VICTORIA GOWRI, J.)
2025-I-LLJ-337 (Mad)

UNAUTHORIZED ABSENCE

Retirement Benefits – Husband of Respondent removed from service for unauthorized absence – As employee had died, Tribunal held that it would be proper to treat punishment of removal from service as voluntary retirement with all retirement benefits – Whether, impugned order sustainable – *Held*, workman served for more than 20 years – No other instances Respondent-workman remained absent unauthorizedly – Proved from medical certificate workman hospitalized for long period – No legal assistance of intelligent persons provided during Disciplinary Proceedings – By not providing legal assistance authority violated principle of natural justice – Presiding Officer rightly allowed reference in favour of Respondent-workman – No infirmity in impugned judgment – Petition dismissed [*General Manager, Western Railway v. Mangliben Mehrubhai Patel*]

(M.K. THAKKER, J.)
2025-I-LLJ-417 (Guj)

MARCH, 2025

BYE-LAW

Employment – Industrial dispute raised by workmen that they were not provided employment by society – Labour Court opined that society could amend its bye-laws allowing employment for these persons under new category – Whether, Labour Court erred in directing employment for these persons – *Held*, when bye-law of Petitioner's Society has reference only to four types of Workmen, trade union as well as the newly impleaded Respondents could not claim that they were workmen – Labour Court erred in issuing such direction to Petitioner-management to alter its bye-law and provide work – Unless particular work entrusted to Society it could not provide them work – Workmen would be entitled to claim any other rights against Management that they were so entitled – Petition allowed. [*Management of NLC Indco Serve v. Presiding Officer*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-I-LLJ-600 (Mad)

COMPENSATION

Accident in Course of Employment – Employee's State Insurance Act, 1948 – Sections 51-A to 51-E and 52 – Employees State Insurance (Central) Rules, 1950 – Rule 58 – Petitioners-parents of deceased who died in accident occurred in course of employment sought for compensation from Respondent – Commissioner directed Appellant-Employer to compensate Petitioners with interest – Whether, Petitioner entitled for compensation – *Held*, Respondent no. 2 agreed to pay Petitioners stating that deceased passed away while working – Agreement entered between Petitioners and Respondent no. 2 stated that deceased sustained injury in course of his employment – Deceased accommodated within factory premises for benefit of employer – Nexus between place of accident and employment – Respondents failed to prove that deceased was not in course of employment during accident – Deceased had been doing overtime tasks on fateful day – Bearing in mind Section 51-A to 51-E of Act 1948, dependents of deceased entitled to dependents benefits – Appellant liable to extend dependent's benefits contemplated under Section 52 of Act read with Rule 58 of Rules, 1950 to Petitioners – Appeal dismissed. [*Management, ESIC v. N. Aaran*]

(R. SAKTHIVEL, J.)
2025-I-LLJ-567 (Mad)
LNIND 2024 MAD 5125

DENIAL OF WEIGHTAGE MARKS

Violation of Fundamental Right – Constitution of India, 1950, Articles 12, 14 & 16(1) – Petitioners denied weightage marks by Respondent authorities – Whether, Petitioners entitled to weightage marks on ground of working in Hospital during pandemic – *Held*, clear from Government Order that maximum weightage referred to Government service apply to persons appointed by competent authority of Government – No denial regarding competency of authority *qua* appointment of Petitioners – Failure to award weightage marks to Petitioners violative of Article 12 of Constitution – Once Court concluded Petitioners entitled to weightage marks, not extending same discriminatory under Article 14 and denial of equal opportunity under Art 16(1) of Constitution – By restricting incentive, object of awarding weightage marks frustrated – Petitioners entitled to weightage marks – Petitions allowed. [*Yenuganti Thriveni v. State of AP*]

(SUBBA REDDY SATTI, J.)
2025-I-LLJ-504 (AP)

DISMISSAL FROM SERVICE

Misconduct – Petitioner dismissed from service for obtaining illegal gratification from parents in exchange of getting admission to their wards in school – Labour Court held termination of Petitioner-workman justified, hence this petition – Whether termination of Petitioner sustainable – *Held*, charge could not be held vague – Workman understood charge and defended himself in domestic enquiry proceedings as well as before Labour Court – Unlike criminal trials where there is presumption of innocence, the primary aim in domestic enquiry is enforcement of discipline – Initiating action based on oral reports of co-employees could not be found fault with – On considering entire bank statements dispassionately marked difference with respect to cash deposits during other times and during admission season, circumstance pointed out that commission of misconduct was more probable – Petition dismissed. [*M. Govindarajan v. Correspondent, Vidya Mandir School*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-I-LLJ-610 (Mad)
LNINDORD 2025 MAD 94

Opportunity to Defend – Workman dismissed from service for refusal to work – Labour Court found that non-employment of workman, justified – Whether reasonable opportunity given to workman in course of Domestic Enquiry – *Held*, workman initially given all due opportunities but workman has been taking adjournments – Later, Enquiry Officer conducted enquiry without giving opportunity to workman to participate – Time granted for submitting explanation not enough and even in second show-cause notice no reasonable opportunity given which vitiated enquiry proceedings – Unfair to both parties considering age of workman to remand matter back – Difficult to conclude as to facts or otherwise of charge one way or other – Not specifically denied by management that there was no production loss – Non-employment of workman unjustified – *In lieu* of reinstatement lumpsum compensation granted – Petitions disposed of. [*S. Krishnamoorthy v. II Additional Labour Court*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-I-LLJ-616 (Mad)

EMPLOYER-EMPLOYEE RELATIONSHIP

Nature of Work – Employment Provident Fund Act, 1952, Sections 6 and 7-A (i)(a) – Commissioner in matter of proceedings under Section 7-A (i)(a) of Act held that the provisions of Section 6 of Act applicable to Petitioner-registered cooperative society – Whether, Act 1952 applicable to Establishment-Bank as Bank-Pigmy Agent relationship indicative of Employer-Employee – *Held*, if work continues for uninterrupted period of 240 days it would be in permanent nature – After remand, show cause notice given and appointment orders of pygmy agents collected – Exercise conducted by commissioner to ascertain nature of work – On verification of appointment letter questionary submitted by pygmy agents – Master servant relationship exist between Bank and pigmy agents as Bank vitally dependable on Pigmy agents – Act 1952 applicable to Establishment-Bank – EPF Act has objective of labour welfare – No illegality in order passed by Commissioner – Petition dismissed. [*Wardha Nagri Sahakari Adhikosh Maryadit Bank v. EPF*]

(M.S. JAWALKAR, J.)
2025-I-LLJ-642 (Bom)

IMPLEADING OF PARTY

Majority of Union – Industrial Relations Code, Section 14(3) – Appellant-majority Union filed application wherein Court below concluded that Trade Union could not seek restraint on Management as to who should it negotiate with – Whether, Appellant had right to prevent other Unions from participating in negotiations with Management – *Held*, Section 14(3) of Code provides that a Trade Union having 51% or more of workers on muster roll of Industrial Establishment should be recognized as sole negotiating Union of workers – If any one Trade Union on its own has the support of 51% of the workers or more, it will be the sole bargaining agent of the workers – Difficulty arises when no Trade Union able to garner support of more than 50% of the workers – In order to provide a wide base for representation any Union which has the support of more than 20% of the work force will form part of the negotiating council – No Union except a Trade Union which has got support of more than 50% of work force be recognized would have right to prevent other Unions from participating in negotiations with Management – Appeal disposed of. [*Shanmugam, General Secretary v. Government of Tamil Nadu*]

(R. SUBRAMANIAN, J.)
2025-I-LLJ-592 (Mad)
LNIND 2025 MAD 238

RECOGNITION OF TRADE UNION

Secret Ballot System – Constitution of India, 1950, Article 19(1)(c) – Trade Unions Act, 1926, Section 8 – Petitioner-Trade Union sought direction upon Respondents to adopt the Secret Ballot System to elect unions for recognition – Single Judge rejected plea on ground that no law in State for recognition

of Trade Union – Whether, Trade union entitled for recognition – *Held*, right to form association or Trade Unions is a fundamental right under Article 19(1)(c) of Constitution – Section 8 of Act provides for registration of Trade Union if all requirements of said enactment were fulfilled – Trade Unions with sufficient membership strength were able to bargain more effectively with Managements – Right to identify a sole bargaining agent has already been recognized by Courts – Workmen in Zonal Railways involved in more crucial service conditions would directly affect public at large – Secret Ballot System for determining recognition of Trade Union would be more suitable – Trade Unions entitled to succeed – Appeals allowed. [*DMK ICF Labour Union v. Union of India*]

(M.S. RAMESH, J.)
2025-I-LLJ-585 (Mad)

REGULARIZATION

Compensation – By impugned award, Labour Court rejected claim of workman that his services be regularized – Whether, workman could be entitled to relief prayed for – *Held*, when workman entitled to be represented by trade union, petition maintainable – On consideration of control theory workman was employee – Payment made to workman had no nexus to any output or work that he performed but related only to the wage period, that is, monthly salary – Taking into account method of engagement, payment of remuneration and continuity of service, the relationship between the parties is in the nature of an employer-employee relationship and not that of an independent agency – Workman had put in long number of years, he was simply sent out without any benefits being paid, which was not justified – Award of compensation granted to Petitioner – Petition allowed. [*Regional Secretary v. Central Government Industrial*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-I-LLJ-625 (Mad)

Employer-employee Relationship – Contract Labour (Regulation and Abolition) Act, 1970, Section 10 – Tribunal dismissed claim of Petitioners to be reinstated into service and regularized on ground that there was no employer-employee relationship between Petitioners and Respondent – Whether, Tribunal rightly dismissed claim of Petitioners on ground of no employer-employee relationship – *Held*, no evidence adduced by any of the parties to effect that Petitioners were doing the job of a Store Keeper so as to attract Section 10 of Act 1970 – Their job was only to lift, shift, clean, stock and preserve materials in the godowns besides opening boxes for inspection – Nothing done by Petitioners with regard to keeping of accounts or maintaining registers for store keeping purposes – Nothing to show that the contract between the contract labourer and the writ petitioners was a sham arrangement/engagement, inasmuch as, the registered contractor had engaged Petitioners on contract basis and had paid them their salaries – He was also the one who had disengaged the services of Petitioners – Petitioners have not been able to show any document showing that they had been engaged by Respondent or that they were getting paid by the Respondent or that their services were terminated by Respondent – Petitioners have not been able to show that there was any employer-employee relationship between Petitioners and Respondent – Petition dismissed. [*Jatin Rajkonwar v. Union of India*]

(MICHAEL ZOTHANKHUMA, J.)
2025-I-LLJ-513 (Gau) LNIND 2024 GAU 3

Wrongful denial of Employment – Respondent-union had sought permanent status for workman and settlement arrived only for few of them – Tribunal directed regularization of remaining workmen which was confirmed by Division Bench, hence this appeal – Whether, Tribunal rightly directed permanent status for remaining workman who were not regularized in settlement – *Held*, all the 32 workmen commenced their work through the contractor from 1984 and continued till 1994 – Being conscious of fact that settlement provides for regularization for 19 out of the 32 workmen, Government invoked power of reference to refer matter to Tribunal to adjudicate interest of all workers – Tribunal naturally bound by such reference – Findings of fact arrived at by Tribunal, unassailable – High Court

correctly rejected petition filed against award – Remaining workers stand on same footing as regularized employees and they were wrongly not made part of the settlement – Appellant has failed to establish any distinction between the two sets of workers – Tribunal was, therefore, justified in answering the reference and returning the finding that they hold the same status as the regularized employees – Appeals dismissed. [*Mahanadi Coalfields v. Brajrajnagar Coal Mines Workers' Union*]

(PAMIDIGHANTAM SRI NARASIMHA, J.)
2025-I-LLJ-497 (SC)
LNIND 2024 SC 99

SEXUAL HARASSMENT

Fair Opportunity to Defend – Punishment of not be eligible for pay rise for stipulated period given by Petitioner-authority to Respondent-employee on complaint of sexual harassment against him – Labour Court reversed findings of internal Complaints Committee by holding that Respondent was not given with fair opportunity of hearing – Whether, Respondent entitled to fair opportunity of hearing on such complaint of sexual harassment against him – *Held*, complainants felt gestures of Respondent as embarrassing - Feelings of complainants matter lot than CCTV footage – No motive for complaints to give false complaint against Respondent – Petitioner's company had no illegal motive against Respondent to make any false complaints against Respondent – Safety of victims need to be given priority – Employer need to ensure that complainants shall not be allowed to stand long cross-examination in name of availing fair opportunity – Respondent was in habit of sending list of questions in name of availing fair opportunity – Strict rules of evidence got no allocation to type of inquiry in charges of sexual harassment against women employees – Labour Court ought not to have given much significance to non-furnishing of CCTV footage, thus, impugned order quashed – Petition allowed. [*HCL Technologies Ltd v. N. Parsarathy*]

(R.N. MANJULA, J.)
2025-I-LLJ-554 (Mad)

TERMINAL BENEFITS

Employee on Consolidated Pay – Payment of Gratuity Act, 1972, Section 2(e) – Petitioner sought terminal benefits including gratuity by computing specified service period but it was denied by Respondent no. 1 – Whether, Petitioner entitled to such terminal benefits including gratuity – *Held*, in view of Section 2(e) of Act, employee on consolidated pay or employee under regular basis was not distinguished – Nowhere in Act mentioned that employee working on consolidated pay not entitled for gratuity – Petitioner entitled for gratuity and terminal benefits for period she was under consolidated pay – Respondent no. 1 directed to pay such benefits including gratuity – Petition disposed of. [*V. Janagambal v. Deputy Registrar (Co-op) Society*]

(J. SATHYA NARAYANA PRASAD, J.)
2025-I-LLJ-683 (Mad)
LNINDORD 2025 MAD 44

TERMINATION OF SERVICE

Fresh Panel – Constitution of India, 1950, Articles (4-A) & 16(4) – Division Bench dismissed appeal preferred by Respondent-State against judgment of Single Judge who *vide* first impugned order directed to make fresh panel for appointment – Division Bench dismissed appeals filed by Appellant-employee against judgment passed by Single Judge who *vide* second impugned order had refused to interfere with order of termination issued by Respondent-State – Whether advertisement issued by respondent No. 4 and appointment process carried out in pursuance thereof, was valid – Whether direction issued by High Court was justified considering the fact that the candidates earlier appointed to the subject posts were neither impleaded as party nor were heard before the issuance of a direction that adversely affected their service – *Held*, fundamental right to claim reservation as Articles 16(4) and (4-A) of Constitution are in the nature of enabling provisions only and do not mandate the State or its instrumentalities to provide reservation in every selection process but inspite thereof, the State's decision to not provide reservation has to be based on some quantifiable data and valid reasoning –

Advertisement issued by Respondent No. 4 silent on aspect of total number of posts – Entire recruitment process in violation of settled law, thus, nullity in law – Until and unless review petition filed against first impugned order it provided finality – Trite law that principles of natural justice could not be applied in any straitjacket formula – Since very selection of Appellant nullity in eyes of law, Single Judge committed no error in directing State to prepare fresh panel – Once appointment process declared to be nullity every action taken in furtherance illegal therefore constitutional courts have jurisdiction to set aside such appointments wholly – Fresh notification directed to be issued to State – Appeals dismissed. [*Amrit Yadav v. State of Jharkhand*]

(SANDEEP MEHTA, J.)
2025-I-LLJ-481 (SC)
LNIND 2025 SC 147

TERMINATION

Compensation – Workman's services terminated by authority – Labour Court held that Workman not entitled to relief of reinstatement and directed Management to pay compensation – Whether, workman entitled for reinstatement – *Held*, order of termination cannot be held to be just as no opportunity was granted to workman and no domestic enquiry held in respect of allegations – Period of litigation, original employment and employment after accident considered – Besides footing the hospital bill, it is also stated across the bar that the workman had received compensation – Repeated opportunities granted to workman as he could not pass grades and capability of workman to no available post – Fit case where compensation *in lieu* of reinstatement ordered – Petitions disposed of. [*K.M. Nagaraj v. R.R. Donnelley India Outsource P Ltd*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-I-LLJ-604 (Mad) LNINDORD 2025 MAD 96

WITHHOLDING OF GRATUITY

Delayed Payment Interest – Bharat Heavy Electricals Limited Conduct, Discipline and Appeal Rules, 1975, Rule 30-A – BHEL Gratuity Fund Rule, Section 9 – Payment of Gratuity Act, 1972, Sections 4(6)(b) and 7(3-A) – Petitioner withheld payment of gratuity to Respondent no. 1 during pendency of criminal proceedings – Gratuity application filed by Respondent no. 1 allowed by Controlling Authority and confirmed by Appellate authority – Whether, Controlling Authority erred in allowing interest for delayed payment from date of eligibility to get gratuity – *Held*, Section 4(6)(b) of Act forfeits entitlement of gratuity when services are terminated due to misconduct or having got convicted for offence in course of employment – Neither Rule 30-A of Rules, 1975 nor Section 9 of Gratuity Rule referred about payment of interest – Until Petitioner got judgment of acquittal from Supreme Court Respondent no. 1 continued holding criminal conviction against him – In absence of proof to show that Respondent no. 1 allowed to retire irrespective of pending charges against him, wrong on part of appellate authority to allow entitlement of interest under Section 7(3-A) of Act – Impugned order, quashed – Petition allowed. [*Executive Director, BHEL v. K. Chandrasekaran*]

(R.N. MANJULA, J.)
2025-I-LLJ-531 (Mad) LNINDORD 2024 MAD 3094