

AIBEA's

LEGAL NEWS

Q – 1 JAN – MARCH 2026

ALL INDIA BANK EMPLOYEES' ASSOCIATION

LEGAL NEWS

From AIBEA

BULLETIN Q – 1
JAN – MAR 2026

JANUARY, 2026

APPROPRIATE GOVERNMENT

Jurisdiction – Industrial Disputes Act, 1947, Section 2(o), 2(o) & 2(n)(vi) – Industrial Employment Standing Orders Act, 1946, Section 14 – Metro Railways (Construction of Works) Act, 1978, Section 3 – Metro Railways (Operation and Maintenance) Act, 2002 – Indian Railways Act, 1890 – Petitioner assailed order passed by Respondent no. 1 declaring office bearers of Union as protected workmen on premise that Central Government not Appropriate Government – Whether, Central Government was appropriate Government – *Held*, under Memorandum of Under-standing State Government has power to appoint Managing Director as provided under Section 3 of Act, 1978 with consent of Central Government – State Government need to take approvals from Central Government in administrative decisions – Metro railway itself governed by Act, 1978 and Act, 2002 both Central legislations – Once BMRCL being Railway company as defined in Section 2(o) of Act, 1947 then under Section 2(a)(i) of Act, 1947 Central Government would be Appropriate Government – Act, 1978 refers to Act 1890 – Section 2(n)(vi) of Act 1947 provided appropriate Government might if satisfied of public interest notify public utility service in respect of industry – Since appropriate Government being Central Government State Government had no power to issue Notification in respect of Railway – Respondent no.5 restrained from granting any exemption under Section 14 of Act, 1946 to Respondent-Company-Central Government was appropriate Government – Petition partly allowed. [*BMRCL Employees Union v. BMRCL*]

(ANANT RAMANATH HEGDE, J.)
2026-I-LLJ-121 (Kant)
LNINDORD 2025 KANT 1736

CONDONATION OF DELAY

Fair Adjudication – payment of Wages Act, 1936, Section (1A) – Limitation Act, 1963, Section 5 – An award of Rs. 503567/- was passed by authority under Act by the Assistant Labour Commissioner in favour of the Petitioner against Respondent on account of delayed wages – Appellate Court reversed finding of impugned award passed by Commissioner – Whether Appellate Court was justified in entertaining and allowing the appeal beyond the statutory period of limitation of 30 days prescribed under Section 17 of Act 1936, and whether

it was competent to apply the provisions of Section 5 of Act 1963, for condoning such delay – *Held*, Section 17 of Act 1936 does not contain any enabling clause empowering Appellate Court to condone delay beyond period of limitation – Settled principle of law that when special stature prescribes specific period of limitation for filing appeal, general provisions of Act 1963 could not be invoked – When special enactment excludes application of general law by necessary implication, Court cannot import provisions of general law merely on equitable considerations – Appellate Court wrongly invoked Section 5 of Act 1963 despite clear statutory exclusion under Act 1936 – It entertained appeal without compliance of mandatory deposit certificate requirement under Section 17(1A) of Act 1936 – It decided appeal on merits without affording Petitioner opportunity of being heard contrary to audi alteram partem principle – Impugned order, set aside – Petition allowed. [*Barket Ali v. Divisional Manager*]

(WASIM SADIQ NARGAL, J.)
2026-I-LLJ-19 (JNK)

DEFAULT IN PROVIDENT FUND CONTRIBUTION

Levy of Damages – Petitioner in ex-parte proceedings levied damages for failure on part of Respondent-company to remit provident fund dues – Tribunal set-aside impugned order passed by Petitioner – Whether, order of Tribunal requires interference – *Held*, power to award damage discretionary in nature – Respondent establishment had incurred loss as was evident from the initiation of action for auctioning of moveable properties – Levy of damages for default in EPF dues not justified when employer suffered continuous losses – Respondent establishment had no intention to escape from EPF contribution thus, there was no willful default on the part of the Respondent establishment in delayed remittance – Tribunal rightly waived of damages – No grounds to interfere with order of Tribunal – Petition dismissed. [*Central Board of Trustees EPF v. Garden View Implex*]

(JYOTI MULIMANI, J.)
2026-I-LLJ-63 (Kant)

EMPLOYER-EMPLOYEE RELATIONSHIP

Legality of Reference – Contract Labour (Regulation and Abolition) Act, 1970, Section 2 (b) – Respondents sought for regularization after being engaged temporarily against permanent vacant posts – Government referred such dispute with regard to absorption of contractors workers - Whether, order of reference, sustainable – *Held*, under Section 2 (b) of Act, workman deemed to have been employed as contract labour where hired in with particular work of principal employer – Prima facie test to determine relationship between master and servant is existence of right in master to supervise and control work done – Where contractor employs workman to do work which he contracted with third person, workman would not become workman of management – When principal employer keeps control on contract labour, contract between contractor and principal employer is sham – There being no issue and recital to reference being not in accordance with law was abuse of the process of law – When relationship is in dispute reference clearly suffers from material irregularity – Recital to

reference made arbitrary and no material for such presumption when said relationship has not only been challenged but clearly denied by Petitioners-principal employers – Impugned reference, set aside – Petition allowed. [*Steel Authority of India Ltd v. The State of West Bengal*]

(SHAMPA DUTT (PAUL), J.)
2026-I-LLJ-195 (Cal)

REGULARISATION

Discriminatory Treatment – Constitution of India, 1950 Article 14 – Petitioner's claim for regularization of employment, rejected by Municipality on ground of having not completed 10 years of service on specified date – Whether, Petitioner entitled for regularization – *Held*, Petitioner was in continuous employment for over 17 years and then approached writ Court seeking regularization of his services – Petitioner could not be picked out for discriminatory treatment when other employees were given benefit of regularization – Merely because the Petitioner approached this Court earlier, he could not be shown a different treatment which on the face of it would become arbitrary and violative Article 14 of Constitution – Petitioner becomes entitled to consideration of his case for regularization – Impugned endorsement, quashed – Petition allowed. [*Shankaragouda v. State of Karnataka*]

(M. NAGAPRASANNA, J.)
2026-I-LLJ-157 (Kant)
LNINDORD 2025 DHRWD 410

REGULARIZATION

Continuous Service Period – Petitioner sought for regularization of service from date of completion of 10 years of continuous daily waged service – Whether, claim of Petitioner for regularization, sustainable – *Held*, non-completion of 10 years of continuous service disentitles Petitioner for being considered for regularization – Benefit of regularization could neither be claimed nor granted *dehors* regularization policy as applicable at relevant time – Once Petitioner not rendered 240 days of continuous service during year, *plea* of regularization was devoid of any merit – Non-consideration leads to depriving Petitioner of work charge status and pay fixation – Inaction of State Authorities amounted to negating benefits – Petitioner not entitled for regularization – Petition disposed of. [*Lok Raj v. State of Himachal Pradesh*]

(RANJAN SHARMA, J.)
2026-I-LLJ-221 (HP)
LNINDU 2025 HP 1

REINSTATEMENT

Backwages – In industrial disputes raised by Respondents-workers in relation to termination of service, Labour court directed Petitioner-company directed to reinstate workers – Whether, order of Labour Court for reinstatement of Respondents and granting them

backwages, sustainable – *Held*, Respondents reinstated into service and minimum wages ordered to be paid – No pleading or proof with reference to workmen being gainfully engaged elsewhere – No pleading that workman remained unemployed nor has evidence been let in, therefore award granting backwages *per se erroneous* thus set aside – Petitions partly allowed. [*V.S.T. Service Station v. K. Palanivel*]

(P.T. ASHA, J.)
2026-I-LLJ-43 (Mad)

Payment of Gratuity – Payment of Gratuity Act, 1972, Sections 4(1), 4(2) & 4(6) – Gratuity for period of service not paid to Petitioners treating such period of termination till their reinstatement as break in service – Whether, Respondents justified in treating period of termination till reinstatement as break in service – *Held*, payment of gratuity under Act 1972, statutory right given to employee and withholding of gratuity not permissible except as provided under Section 4(6) of Act – Sections 4(1) and 4(2) of Act reveals employee entitled for gratuity if rendered continuous service for not less than five years and interruption not caused due to fault of employee – Petitioner's services terminated not due to their fault – Order of reinstatement not disturbed by High Court – After reinstatement with continuity in service, Petitioners to be treated to have rendered service without any break and as such entitled for payment of gratuity for entire period of service – As per Section 4(2) of Act, entire length of service to be taken into account – Action of Respondents in non-payment of gratuity to Petitioners could not be sustained – Petition disposed of. [*Ramesh Chandra Sharma v. Uttarakhand Transport Corp.*]

(SUBHASH UPADHYAY, J.)
2026-I-LLJ-145 (Uttar)

TERMINATION

Appeal against Reinstatement – As Respondent-employee suspended from services for misconduct, Tribunal directed reinstatement of workman holding termination as illegal – Whether, Tribunal erred in directing reinstatement – *Held*, employee admitted that on the relevant day he was not assigned the duty of a cashier – Employee was in fact directed by the manager to receive the cash – Respondent never led any evidence to prove his defence that the enquiry proceeding was vitiated – Withdrawal of complaint by institution not enough to exonerate employee of charge of misconduct especially when the organization in which he was working was a financial institution – Employee seen to have understood charge against him and contested same – As the respondent/employee was working in a financial institution where there cannot be a compromise on the integrity of its employees, punishment of dismissal awarded was not disproportionate – Action of management in terminating services of employee, upheld – Petition allowed. [*Central Bank of India v. Anil Kumar*]

(CHANDRASEKHARAN SUDHA, J.)
2026-I-LLJ-100 (Del)
LNIND 2025 DEL 8204

Fair Opportunity of Trial – Petitioner-hospital terminated service of Respondent on account of her refusal to succumb to pressure tactics – Labour Court held Respondent entitled to full back wages and continuity of service from date of her termination till superannuation – Whether, termination of Respondent, sustainable – *Held*, Respondent dismissed without issuance of chargesheet or holding of domestic enquiry – Petitioner could not rely on principle applicable to properly conducted departmental proceedings when it admittedly conducted none against Respondent – Plea of res judicata by Petitioner could not be sustained on merits – No domestic enquiry conducted against Respondent while enquiries held against other employees implicated in same incident – Once Petitioner failed to lead evidence before Labour Court to establish misconduct Award could not be said to suffer from perversity – Impugned award based on correct legal application therefore interference unwarranted – Petition dismissed. [*Sh. Moolchand Khairati Ram Hospital v. Thresiamma George*]

(CHANDRASEKHARAN SUDHA, J.)
2026-I-LLJ-232 (Del)
LNIND 2025 DEL 8517

Workman – Petitioner raised industrial dispute alleging that he was forced by management to submit resignation letter – Labour Court concluded that Petitioner was not workman and held reference not maintainable for want of jurisdiction – Whether, order of Labour Court that Petitioner was not workman, sustainable – *Held*, clear from e-mails that schedules were fixed by the Petitioner – Merely because he was required to take approval does not make the job clerical – Format of leave application indicated that Petitioner required to apply his mind to fill particulars – Such part of work could also be termed as administrative work – Monthly reports of employees signed by Petitioner – Petitioner playing active role in running day to day activities of school which he was required to do as per terms of employment – Petitioner was predominantly carrying out administrative job in Respondent-Establishment – Labour Court rightly held that Petitioner was not workman – Petition dismissed. [*Saleem Javed v. Management of NAC*]

(ANANT RAMANATH HEGDE, J.)
2026-I-LLJ-186 (Kant)

TRANSFER OF SERVICE

Sustainability – Petitioner-driver aggrieved by memo under which he was transferred for administrative reasons – Whether, transfer order passed by Respondent, justified – *Held*, transfers are ordinarily made on the grounds of administrative convenience/exigency or on larger public interest – So-called administrative convenience not discernible from memorandum – Transfer of employee from one place to another would be justified if it was in the interest of institution or in larger public interest – Order does not disclose reason for transfer on administrative grounds – No circumstances advanced justifying transfer of Petitioner, thus such transfer in contemplation of disciplinary proceedings would be punitive in nature – Memorandum suffers from malice in law, therefore it could be treated as a colourable exercise of power – Impugned order, set aside – Petition allowed. [*Jaimon Joseph v. Kerala State Road Transport Corporation*]

(N. NAGARESH, J.)
2026-I-LLLJ-39 (Ker)

FEBRUARY, 2026

ACCIDENT

Course of employment – Employees' State Insurance Act, 1948, Section 2(8) and 51A – ESI Court dismissed appeal preferred by Claimant rejecting claim of Appellant that death of deceased took place in course of employment, hence this appeal – Whether deceased, who was employed as Kitchen Runner and Dish Washer with Restaurant, died in accident arising out of and during course of employment or not – *Held*, in order to succeed, it had to be proved by employee that (1) there was accident, (2) accident had casual connection with employment, and (3) accident must have been suffered in course of employment – No dispute with respect to first ingredient – As per medical opinion on record deceased died on account of heart failure – In view of testimony of AW3 who was working as Senior Clerk in restaurant, which had gone unrebutted, it could be presumed that had deceased been allowed short leave by manager and given medical care at relevant time, probably deceased would not have lost his life – Deceased fell unconscious while on his way back to home which was just 7 kilometers away from place of work shows that his heart started sinking at place of employment only which forced him to ask for short leave and not at time when he finally collapsed – Findings recorded by Courts below to hold that accident had no causal relationship with employment of deceased and accident was not suffered in course of employment, could not be sustained – Appeal allowed. [*Baljinder Kaur v. ESI Corporation*]

(PANKAJ JAIN, J.) 2026-I-LLJ-408 (PNH)
LNIND 2025 PNH 2

ACCIDENT IN COURSE OF EMPLOYMENT

Compensation – Workman's Compensation Act, 1923, Section 3 – Claimant sought compensation for accident occurred in course of employment – Labour officer directed owner of car and insurer to pay compensation – Whether, compensation awarded by labour officer requires interference – *Held*, holding of driving licence by claimant on date of incident not in dispute – As per Section 3 of Act when personal injury caused to workman by accident arising out of and in course of employment then employer liable to pay compensation – Rashness or negligence on part of claimant irrelevant according to nature of accident – Accident taken place during course of employment of claimant – Doctor given disability certificate considering injuries sustained by claimant – Compensation amount modified – Loss of earning capacity due to disability, re-assessed – Appeal partly allowed. [*National Insurance Company Ltd v. D.M. Inatulla*]

(GEETHA K.B., J.)
2026-I-LLJ-269 (Kant)
LNINDU 2025 DHRWD 177

DOMESTIC ENQUIRY

Preliminary issue – Industrial Disputes Act, Section 11A – Labour Court decided preliminary issue in favour of Respondent/Management, holding that departmental enquiry was conducted fairly and in consonance with principles of natural justice, hence this petition – Whether order on preliminary issue with regard to domestic enquiry could not be challenged in writ proceedings – *Held*, preliminary issue before Labour Court was confined to examining fairness of domestic enquiry – Petitioner/workman participated in domestic enquiry, cross-examined Management witnesses, and was afforded adequate opportunity to defend himself – Labour Court held that domestic enquiry was conducted in accordance with principles of natural justice and, therefore, found in favour of Respondent – Labour Court observed that at stage of preliminary issue, it was neither necessary not appropriate to enter into questions regarding validity of findings of enquiry officer, validity of charges and relief to be granted, which could be examined under Section 11A of Act – Labour Court had exercised its discretion properly and judiciously – It was not case of Petitioner that order was passed without notice to him or that Labour Court did not record any reasons – No prejudice caused to Petitioner – Petition dismissed. [*S. Neelagandan v. Management, Flowserve India Controls P. Ltd*]

(N. MALA, J.)
2026-I-LLJ-285 (Mad)
LNINDORD 2025 MAD 2210

REFERENCE

Outsourced employees – 2nd Respondent issued notification referring dispute between Petitioner Union and executive Engineer for consideration of payment of Pay and Dearness Allowance in terms of Office Memorandum to Heavy and Light Vehicle Driver engaged through outsource, hence this petition – Whether reference was bad in law and liable to be set aside – *Held*, when administration had denied employer-employee relationship with outsourced (disputed) Drivers, said issue was also required to be decided in said reference – Another issue to be considered by appropriate Government, was whether Petitioner union, who represents direct workers of Establishment, could represent outsourced (disputed) drivers in this case – Impugned notification being arbitrary and irregular, quashed and set aside – Petition allowed. [*ASNVMS v. Chief Secretary*]

(SHAMPA DUTT (PAUL), J.)
2026-I-LLJ-368 (Cal)

REGULARIZATION

Period of Service – After Petitioner's services was terminated, Labour Court had directed reinstatement – Claim of Petitioner for regularization rejected by Respondent No. 3 –

Whether, Petitioner entitled for regularization – *Held*, law intervenes not merely to correct wrong but to restore equilibrium – Doctrine of restitutio and integrum, which commands that when an illegal act of the employer is undone by a court of law, the employee must be restored to the fullest extent possible to the position he would have occupied but for such illegality – Respondents could not be permitted to indirectly nullify binding award passed by judicial body – Individuals could not be left to serve indefinitely on daily-wage without for opportunity for regularization – Petitioner having completed qualifying service, her right to be considered for regularization stood crystallized – No material on record to suggest that Petitioner suffered break in service beyond permissible limit – Once State applied regularization policy to others working on the same set of duties, it could not selectively deny its applicability to Petitioner by raising *plea* of non-sanctioned post – Exclusion of Petitioner from regularization not justified on ground of non-fulfilment of policy criteria – State could not be permitted to take advantage of its own omission – Petitioner entitled to regularization as consequence of constitutional mandate and State's duty to act fairly – Impugned order, set aside – Petition allowed. [*Phoolwati v. State of Haryana*]

(SANDEEP MOUDGIL, J.)
2026-I-LLJ-415 (PNH)
LNIND 2025 PNH 4

SETTLEMENT

Reference – Industrial Disputes Act, 1947, Sections 12 and 25N – Constitution of India, 1950, Article 226 – Petitions filed by workmen challenging validity of settlement, wherein Deputy Labour Commissioner/Conciliation Officer had accepted settlement said to have been entered into between Workmen and Management – Petitions filed by Management challenging reference orders passed by appropriate Government referring dispute for adjudication – Whether appropriate Government, which had received conciliation failure report could refer matter for conciliation at request of parties – Whether Conciliation Officer could hold conciliation proceeding afresh, after having sent conciliation failure report to Government – Whether appropriate Government could refer dispute relating to settlement for adjudication and if so, on what consideration – Whether Workmen had made out case to entertain petitions to set aside settlement on premise that settlement was vitiated on account of force, threat, and coercion by Management as alleged – *Held*, Act does not prohibit parties to conciliation proceeding from making joint request/application to Government to hold second conciliation even after Conciliation Officer has submitted Conciliation Failure Report under Section 12(4) of Act – Appropriate Government has jurisdiction to refer matter to Conciliation Officer to hold conciliation proceeding if there was joint request/application by both parties to hold one more conciliation even after Conciliation Failure Report was received by Government – If dispute was raised questioning validity of settlement recorded under Section 12(3) of Act, appropriate Government was required to assign reasons either in reference order or its noting in file, for having satisfied itself for referring dispute for adjudication – Reference Orders passed by appropriate Government and proceedings pursuant to said Reference Orders, set aside –

Petitions filed by Workmen, dismissed – Petitions filed by Management, partly allowed. [*Ramamurthy C K v. Bosch Limited*]

(ANANT RAMANATH HEGDE, J.)
2026-I-LLJ-353 (Kant)
LNINDORD 2025 KANT 1738

SHOW CAUSE NOTICE

Maintainability of Petition- Constitution of India, 1950, Article 226 – Petition(s) filed challenging show cause notice issued by disciplinary authority, proposing to visit Petitioner therein with major penalty, in spite of enquiry officer giving specific finding that charges levelled against him were not proved – Whether Petitioner had made out case for this Court to exercise its discretionary power to quash impugned proceedings by which Petitioner was called upon to file their written submission within 15 days on Disciplinary/1st Respondent having disagreed with enquiry report submitted by Enquiry Officer – *Held*, in case of service matters, where charge memo or show cause was issued by Authority who lacked authority, without jurisdiction or issue abuse of process of law or same was premeditated or intended only to harass employee and on Court being satisfied, could entertain Writ Petition under Article 226 of Constitution of India and quash charge memo/show cause notice and thus, there was no absolute bar Perse – It was exceptional case wherein this Court could exercise its discretion under Article 226 of Constitution in entertaining present Writ Petitions, as impugned proceedings issued by 1st Respondent, was without jurisdiction, suffers from procedural bias, barred by limitation and also process was used in illegal manner only to satisfy objection raised by Central Vigilance Commission – Entire action resorted by 1st Respondent was vitiated and suffers from malice in law – Proceedings as issued by 1st Respondent in each of Petitions set aside – Petitions allowed. [*R. Srinivasakannan v. Chairman, Chennai Port Trust*]

(T. VINOD KUMAR, J.)
2026-I-LLJ-316 (Mad)
LNINDORD 2025 MAD 2204

TERMINATION

Back Wages – Industrial Disputes Act, 1947, Section 33C(2) – Petitioner employed by Respondent was removed from employment for misconduct – Labour Court ordered reinstatement bur declined to grant back wages to Petitioner – Whether, Petitioner entitled for back wages – *Held*, Petitioner not gainfully employed elsewhere – Labour court erred in holding that Petitioner was not entitled to back wages and continuity of service – Petitioner removed from employment post disciplinary enquiry – Petitioner entitled to back wages from date of dismissal – Petition allowed. [*Basavaraj v. Management of Lok Shikshana Trust*]

(ANANT RAMANATH HEGDE, J.)
2026-I-LLJ-263 (Kant)
LNINDORD 2025 DHRWD 409

Misconduct – Industrial Disputes Act, 1947, Section 11A – Respondent-employee was removed from service by Petitioner – Labour Court held that penalty of dismissal was disproportionate to misconduct and directed Respondent to be reinstated – Whether, order passed by Labour Court for reinstatement, sustainable – *Held*, order of employer imposing penalty of dismissal from service by taking into past misconduct on 63 occasions earlier could not be held to be *erroneous* – Till after passing of award, Respondent had not reported to duty – Labour Court could not have interfered with order of penalty of dismissal when it was found that Respondent was guilty of misconduct and on 63 occasions earlier, he had been imposed minor penalties – Despite minor penalties imposed, Respondent had not mended his attitude and conduct – Impugned order, set aside – Petition allowed. [*Divisional Controller, NWKRTC v. Yellappa*]

(ANANT RAMANATH HEGDE, J.)
2026-I-LLJ-266 (Kant)
LNINDORD 2025 DHRWD 408

TRADE UNION

Recognition – Industrial Relations Code, 2020, Sections 2(zr) and 14 – Petition filed challenging notification of 2nd Respondent/Election Officer and to direct 2nd Respondent to conduct election with Permanent Workmen Class III and IV only as voters in election for recognition of trade unions in respect of 1st Respondent/Corporation – Whether challenges made to notification could be sustained – *Held*, Managements were duty-bound to recognize Trade Unions for negotiating as per Section 14 – If any Trade Union had majority, *i.e.,* 51% and above, it had to be recognized as sole representative of workers for purpose of negotiating – If there was no Trade Union with 51% and more, negotiating council had to be constituted by including representatives of all Trade Unions which secure more than 20% or above – It was incumbent on every Management to recognize majority union or, in alternative, to form negotiating Council with all trade unions having 20% and above – Coming into force of new code had not affected notification issued by Respondent Corporation – From *proviso* to Section 2(zr), for purposes of Chapter III, which was inclusive of provision to recognize Trade Union, all persons employed were to be taken into account – Argument that Class I and II employees could not vote could not be sustained – Even seasonal workers were directed to vote and judgment inter parties had become final – Time had been prescribed for receipt of nominations, for withdrawal of nominations and for finalisation of nominations and election date had been notified as well as date on which votes would be counted – Final list of voters was notified – It could not be said that prejudice was caused to Petitioner union – Challenges made to notification could not be sustained – Petition diposed of. [*TNNVKATS v. Managing Director, TNCSC*]

(D. BHARATHA CHAKRAVARTHY, J.)
2026-I-LLJ-335 (Mad)
LNINDORD 2025 MAD 2212

MARCH, 2026

CONSENT DECREE

Maintainability of Petition – In industrial dispute raised by Union against Management, Tribunal passed an award in terms of agreement between parties concluding that both sides willing to go by settlement, hence this petition by Management challenging award – Whether, petition maintainable as against award of Tribunal – *Held*, when demand pertains to workmen of industry and it relates to their wage conditions and when the petitioner-union was not alien union to the industry and was representing the workmen, the first ground that was raised merely because the majority of the Workmen have agreed to abide by the settlement, would not go to the root of the matter or affect the maintainability of the dispute before the Tribunal – Management given opportunities to file written objections – When Management stated no objection after giving their consent they could not agitate matter before Court – What was recorded by trial court alone would be taken into account and anything contrary could not be argued – Going back belatedly after giving due consent could not be permitted and no writ petition maintainable against award passed by consent – Petition dismissed. [*Mgmt. of Pennar Industries Ltd. V. United Labour Federation*]

(D. BHARATHA CHAKRAVARTHY, J.)
2026-I-LLJ-582 (Mad)

DEPARTMENTAL PROCEEDINGS

Superannuated employee – Maharashtra Civil Services (Pension) Rules, 1982, Rule 27 – Maharashtra State Warehousing Corporation (Staff) Service Regulations, 1992, Rule 110 – Appellant/retired employee filed petition challenging show-cause notice and order of recovery – High Court disposed of petition with directions to take recourse of appeal specified in Regulations, hence this appeal – Whether in absence of any provision in Regulations for institution of departmental proceedings against superannuated employee, Respondent/Corporation could have proceeded against Appellant applying Rule 27(I)(2)(b)(i) of Pension Rules – In case enquiry was instituted after retirement of Appellant, whether Corporation had jurisdiction to continue such enquiry and impose punishment, withholding retiral benefits and direct recovery – *Held*, Rule 110 of Regulations is general in nature and where specific provisions not been made in said Regulations, then in contingency, as far as possible and to such extent as may be considered appropriate by Corporation, cases may be regulated in manner as in case of government employees – In context of Rule 27 of Pension Rules, it could not be made applicable *ipso facto* until Board of Directors had taken conscious decision specifying circumstances and making similar benevolent provision as made in Pension Rules; or having sanction of Government as required under Rule 27(2)(b)(i) for instituting or

continuing proceedings in contingency as specified applying Regulations – Corporation was unable to produce conscious decision of Board regarding adoption of Pension Rules and circumstances explaining situation to apply same Rules as applicable to employees of State Government to employees of Corporation in matter of institution and continuance of disciplinary proceedings post-retirement – Corporation had no jurisdiction to institute departmental proceedings against Appellant for alleged misconduct and to direct recovery against him applying Pension Rules – Departmental proceedings against Appellant quashed – Corporation directed to release all retiral benefits to Appellant – Appeal allowed. [*Kadirkhan Ahmedkhan Pathan v. MH State Warehousing Corp.*]

(J.K. MAHESHWARI, J.)
2026-I-LLJ-532 (SC) LNIND 2026 SC 13

DISMISSAL

Misappropriation of Money – Respondent no. 2 dismissed Petitioner from service for misappropriation of accounts – Whether, Respondent no. 2 erred in terminating service of Petitioner – *Held*, mere mentioning of a cheque number, however, does not establish that Petitioner received any money, and the cheque amount itself was not forthcoming in the SMS – In cases relating to misappropriation of money, charge cannot be established by oral evidence alone – Metropolitan Magistrate had acquitted Petitioner in criminal case filed against him – No documentary evidence to show that showrooms had genuinely remitted amounts – Order proceeds only on basis of alleged admissions relating to incorrect bank postings, but does not disclose the dates on which the showroom employees allegedly entrusted money to the Petitioner – Since all financial records were in the custody of the respondent-Management, the burden squarely lay upon them to prove the alleged misappropriation – No cogent evidence, to substantiate allegations against Petitioner-Impugned order of dismissal not legally sustainable – Petition allowed. [*P. Nambi v. President, Co-optex*]

(HEMANT CHANDANGOUDAR, J.)
2026-I-LLJ-616 (Mad)
LNINDORD 2025 MAD 2209

Reinstatement – Petitioner dismissed from service by Management – Order of dismissal, confirmed by both Appellate Authority and Revisional Authority – Whether, Petitioner could be directed to be reinstated – *Held*, before Enquiry Officer, Corporation neither examined witnesses nor produced documentary evidence to substantiate allegation against the Petitioner – In the absence of any oral or documentary evidence, the Enquiry Officer erred in holding that charges proved only on basis of preliminary report – Impugned order of Disciplinary Authority merely records charges but no independent findings to justify such conclusion – Infraction of essential elements vitiates entire disciplinary proceedings and renders the order of punishment liable to be quashed – Second show-cause notice does not disclose provisional conclusion arrived at by Disciplinary Authority in relation to proposed penalty thereby depriving Petitioner

of opportunity to submit effective explanation – Finding recorded by Enquiry Officer, unsustainable and contrary to settled principles of service jurisprudence – Impugned order, set aside – Respondents directed to reinstate Petitioner into service with 50% of backwages – Petition allowed. [*M. Angamuthu v. Commissioner, Chennai City Municipal Corp.*]

(HEMANT CHANDANGOUDAR, J.)
2026-I-LLJ-621 (Mad) LNINDORD 2025 MAD 2211

INDUSTRIAL DISPUTE

Validity of Reference – Contract Labour (Abolition & Regulation) Act (CLRA), 1970 – Maharashtra Recognition of Trade Unions Act and Prevention of Unfair Labour Practices Act, 1971 (MRTU) – Management availed labour contract services and contract labour apprehending termination of their employment through Union moved Conciliation Officer to maintain industrial relations – Deputy Labour Commissioner referred industrial dispute for adjudication to Industrial Court – Whether, industrial dispute on reference to Industrial Court maintainable – *Held*, mere application to Conciliation Officer without prior dispute with employer could not be termed industrial dispute – Dispute regarding relationship between employer and employee between Management and contract labour to be decided by Industrial Court but not Conciliation Officer – If contract found to be sham in which principal employer controls workers and pays salaries but uses contractor then workers are *de facto* employees of principal employer – Contract is in compliance with CLRA, thus there was no employer-employee relationship between Management and members of Union – Union could not work out remedy under MRTU Act and applicable remedy is an Industrial Dispute before Industrial Court – Appropriate Government might refer Industrial Dispute to Board, Labour Court and Tribunal – Management establishes that labour contract complies with provisions of law, including CLRA – Industrial Court directed to dispose of Reference – Appeal dismissed. [*Premium Transmission P Ltd v. State of MH*]

(S.V.N. BHATTI, J.)
2026-I-LLJ-496 (SC)
LNIND 2026 SC 121

MEMBERSHIP OF TRADE UNION

Notice by Registrar Trade Union – Trade Unions Act, 1926, Section 22(2) Petitioner-trade union sought to challenge impugned notice issued by Registrar observing that person was disqualified for being elected where registered trade union belongs to organized sector, if he not in employment – Whether, impugned notice could be quashed – *Held*, after amendment Section 22 of Act provides for unorganized and organized sector separately – No provision for treating retired or retrenched employees as not "outsiders" was provided – No state amendments bringing in Section 22(2) of Act with explanation – Registrar acquired authority to put in wrong interpretation in notice on behalf of government – Neither 1926 Act nor Constitution of Petitioner no. 1 prohibit retired employee from continuing as office-bearer – Interpretation given

by Registrar beyond his powers – Impugned notice, quashed and set aside – Petitions allowed. [*CESC Sramik Karmachari Union v. State of West Bengal*]

(SHAMPA DUTT (PAUL), J.)
2026-I-LLJ-626 (Cal)

PENSIONARY BENEFITS

Denial – Payment of Gratuity Act, 1972, Section 4 – Appellants-Deceased-employee who resigned from service sought for release of pensionary benefits however, it was denied by Corporation – Application filed against such order was dismissed by Tribunal and same confirmed by High Court, hence this appeal – Whether, deceased employee entitled to pensionary benefits though he resigned from service – *Held*, deceased employee resigned from service and his withdrawal from resignation was not accepted – He had not completed 30 years of service – On resignation by employee, his past service stood forfeited thus he would not be entitled to pension – Clear from Section 4 of Act that employee who had rendered not less than five years of service would be entitled to payment of gratuity regardless of fact that he resigned from service – Appellants entitled to receive gratuity – Appeal partly allowed. [*Ashok Kumar Dabas v. Delhi Transport Corporation*]

(RAJESH BINDAL, J.)
2026-I-LLJ-554 (SC)
LNIND 2025 SC 1177

REGULARIZATION

Contractual Service – Constitution of India, 1950, Article 14 – Division Bench dismissed Court appeals preferred by Appellant-contractual employees and affirmed judgment passed by Single Judge dismissing Petitions filed by Appellants whereby regularization of service sought – Whether, action of Respondent-State in not regularizing Appellant's continuous service violative of Article 14 of Constitution – *Held*, High Court proceeded on mechanical application of precedents – State could not be permitted to exploit its employees – Article 14 of Constitution casts negative obligation upon State to treat all persons equally – Appellants were left with no alternative but to accept conditions unilaterally prescribed by Respondent in order to secure their livelihood – Respondent engaged services of Appellants on sanctioned posts – State having availed of Appellants' services on sanctioned posts for over decade could not in absence of cogent reasons discontinue such engagement – Such action violative of Article 14 of Constitution – Appellants entitled to benefits – Impugned judgment, set aside – Appeal allowed. [*Bhola Nath v. State of Jharkhand*]

(VIKRAM NATH, J.)
2026-I-LLJ-481 (SC)
LNIND 2026 SC 124

SETTLEMENT

Industrial Dispute – Industrial Disputes Act, 1947, Sections 2(A), 2(K), 18(1) & 18(3) – Industrial Disputes (Central) Rules, 1957, Rule 58 – Industrial Dispute Rules, 1958, Rule 25 – Management sought to quash the order passed by Tribunal despite its own finding that majority workers accept settlement allowed respondent Union's prayer for interim relief of much higher than wage increase under Settlement to non-signatory work – Whether, individual workman legally entitled to enter into settlement with Management in respect of collective disputes raised by Union – *Held*, collective bargaining cherished principle of industrial jurisprudence – Statute does not confer monopoly of representation on Unions in every collective dispute – Workmen could not be compelled to await uncertain collective outcome when immediate and beneficial settlement available – Individual settlements binding only on parties to settlement Section 18(3) of Act settlement have wider binding effect – Clear from Sections 2(k) and 2(A) of Act in absence of settlement by Union an individual workman not prohibited from exercising his right under Section 18(1) of Act – Prolonged inaction on part of the Union could not be countenanced to detriment of workmen concerned – Procedure provided under Rules 58 and 25 of central and State Rule respectively cannot extinguish statutory right conferred on workmen to settle dispute – Settlement regarding wage revision under Section 2(K) of Act dispute could be settled under Section 18(1) of Act – Impugned order of Tribunal upholding individual settlements not call for interference – Petition dismissed. [*Caterpillar India P Ltd v. Caterpillar India Thozhilalar Sangam*]

(N. MALA, J.)
2026-I-LLJ-588 (Mad)
LNINDORD 2026 MAD 2

TERMINATION

Right of Non-Citizen – Constitution of India, 1950, Article 14 & 21 – Immigration and Foreigners Act, 2025, Section 3 – Petitioner's service terminated by Respondent-bank on ground of being Sri Lankan National – Whether, termination of service of Petitioner, justified – *Held*, while certain rights expressly available only to citizens, other fundamental rights were guaranteed to all persons – Whether State action alleged to be arbitrary, unreasonable discriminatory and results in violation of rights guaranteed under Articles 14 or 21 of Constitution, a non-citizen is entitled to invoke writ jurisdiction – Her stay stands regularized and protected by virtue of Section 3 of Act who admittedly is a registered Sri Lankan Tamil national – No material produced to substantiate that Petitioner acquired Indian citizenship – Application form did not contain specific column requiring disclosure of citizenship or nationality thus no adverse inference could be drawn – Petitioner appointed pursuant to recruitment notification and continued in service – Respondent Bank could not seek to terminate her

services – No statutory provision expressly prohibiting appointment of non-citizens – Impugned order of termination, set aside – Petition allowed. [*G. Thirukalyanamalar v. State Bank of India*]

(HEMANT CHANDANGOUDAR, J.)
2026-I-LLJ-562 (Mad)

WORKMAN

Supervisor – Industrial Disputes Act, 1947, Section 2(s) – Appellant terminated from service – On reference, Labour Court set aside order of termination and directed Respondent-management to reappoint Appellant with full back wages – Whether or not Appellant herein is a 'workman' within the meaning and concept of definition under Section 2(s) of Act 1947 – *Held*, supervisory function would denote independent right to exercise control on any group of workers – Supervisor can be considered to be workman so long as he discharges clerical work without any disciplinary power – He was held to be workman within meaning of Section 2(s) of Act and not supervisor – Merely because management named post of Appellant as manager it would not *ipso facto* take him out of purview of workman – Applying the dominant nature test, the principal duties entrusted to the Appellant and discharged by him invested him with the status of a "workman" – Appellant fell within definition of Section 2(s) of Act 1947 – High Court committed error in holding that Appellant was not workman – Impugned judgment, set aside – Appeal allowed. [*Srinibas Goradia v. Arvind Kumar Sahu*]

(N.V. ANJARIA, J.)
2026-I-LLJ-543 (SC)
LNIND 2025 SC 1234