

AIBEA's

LEGAL NEWS

Q – 2 APR – JUNE, 2025

ALL INDIA BANK EMPLOYEES' ASSOCIATION

LEGAL NEWS
From AIBEA
BULLETIN Q – 2
APR - JUNE 2025

APRIL

ACCIDENT COMPENSATION

Disability – Workmen's Compensation Act, 1923, Section 4(1)(b) and Schedule-I Serial No. 4 – Motor Vehicles Act, 1988, Sections 8 and 9 – Claim Petition filed by Respondent No. 1 who sustained injuries in accident during course of employment – Commissioner directed Appellant to pay compensation to Claimant – Whether, Commissioner erred in directing Appellant to pay compensation to Respondent No. 1 – *Held*, revealed from evidence of doctor that disability of patient was 60% permanent in nature which led to disfiguration – For driver, eye sight is essential without which he could not drive vehicle – At no point of time and nowhere in cross-examination of the doctor, neither the Appellant herein and not the Respondent No. 2 had disputed this piece of evidence of the doctor, his evidence also reveals that Respondent No. 1 had sustained gross orofacial injury, which led to disfiguration – Respondent No. 1 disqualified even from getting a driving licence as per Sections 8 and 9 of Act 1988 – Such loss of earning capacity comes under purview of serial No. 4 of Schedule-I of Act, 1923 – Section 4(1)(b) of Act 1923 prescribes amount of compensation in case of permanent total disablement – Commissioner correctly assessed compensation – Appeal dismissed. [*National Insurance Company Ltd v. Shri Laldhari Choudhury*]

(ROBIN PHUKAN, J.)
2025-II-LLJ-227 (Gau)

APPROVAL FOR DISMISSAL

Punishment – Commissioner refused approval for dismissal of workmen – Writ Court set aside order of dismissal and directed Management to pass appropriate orders – Whether, Management had right to modify punishment, if approval is rejected by competent Authority – *Held*, merely because Management challenged order rejecting approval, it could not be deprived of right to take any other action or imposing any other punishment – Clear from order of Writ Court that Management would act as per advice of Commissioner – Workmen would be heard by Commissioner before he offers advice – Commissioner directed to decide matter afresh – Appeals dismissed. [*S. Saravanan v. Motherson Automotive Technologies*]

(R. SUBRAMANIAN, J.)
2025-II-LLJ-120 (Mad)
LNIND 2025 MAD 850

BENEFIT OF TIME SCALE

Continuity of Service – Respondent-workman sought for benefit of time-scale on completion of 5 years' service – Labour Court directed Petitioner-corporation to grant benefit of time-scale from his original appointment – Whether, continuity of service means that Respondent completed 5 years from his original date of appointment – *Held*, continuity of service includes period of time when employee worked including paid or unpaid leave – By granting consequential benefits, Respondent would entitle for the monetary benefits that might be awarded by employer in certain circumstances such as back wages, reinstatement, increments and seniority and other terminal benefits – Employee would be treated as if they were never terminated – Labour Court did not consider that he did not serve at time when

terminated – Respondent would be entitled for benefit of time scale in accordance with rules wherein it is provided that on completion of actual service he would be entitled for the benefit of time pay scale subject to fulfilling of other conditions – On completion of actual service he would be entitled for benefit of time pay scale – Impugned award, set aside – Petition allowed. [*Divisional Controller v. President, Vinayak Karmachari Mandal*]

(M.K. THAKKER, J.)
2025-II-LLJ-104 (Guj)

BENEFITS UNDER SETTLEMENT

Service Benefits – Industrial Disputes Act, 1947, Section 33C(2) – Respondents-workman who had opted for voluntary retirement scheme made representation for giving effect to terms of settlement which was rejected by Petitioner-Management – Labour Court invoking Section 33C(2) of Act held that applicants entitled to relief claimed – Whether, impugned order, sustainable – *Held*, dispute regarding interpretation of terms of settlement hence Petition under Section 33C(2) of Act, maintainable – Basic pay explained with sufficient clarity in Government order – Merely because order granting interim relief shown as separate element that does not take away essence of basic hike – Employer was under obligation to pay service benefits by merging interim relief granted by Government with basic pay thereafter service benefits calculated – When the employees were still working in the Petitioner establishment, there was a hike in the salary by way of interim measure – The settlement binds the Petitioners as the Respondents – Petition dismissed. [*Karnataka Silk Industries v. Puttannaiah*]

(ANANT RAMANATH HEGDE, J.)
2025-II-LLJ-208 (Kant)

COMPULSORY RETIREMENT

Right to prefer Appeal – Payment of Gratuity Act, 1972, Section 7(7) – While so passing order of compulsory retirement disciplinary authority imposed penalty of forfeiture of gratuity payable to Appellant – Single Judge set aside order passed by Controlling Authority whereby entitled to additional gratuity – Whether, Single Judge rightly directed Appellant to prefer Appeal against order of compulsory retirement – *Held*, Single Judge failed to consider fact that application limited only to extent of forfeiture of gratuity and that compulsory retirement of was not an issue – Right to prefer appeal against order of compulsory retirement at the discretion of employee if he chooses but could not be forced to seek recourse to same – Not open for Court to issue such direction directing him to prefer appeal – In view of availability of alternative remedy provided under Section 7(7) of Act – Impugned Order, set aside – Appeal allowed. [*B. Nagendra Prasad v. Food Corporation of India*]

(G. NARENDAR, J.)
2025-II-LLJ-26 (AP)

Sustainability – Tamil Nadu Government Servants' Conduct Rules, 1973, Rule 7 Explanation – On basis of report of Administrative Committee, Government issued impugned order compulsorily retiring Petitioner – Whether, impugned order, sustainable – *Held*, scope of judicial review limited and could not extend to Court substituting its own opinion with disciplinary Authority – Valuable properties acquired by wife of Petitioner – Circular issued by High Court requires Officers to inform of acquisitions made by family members which cannot said to be in derogation of Explanation to Rule 7 of Rules – Un-explained lump sum deposits found in his salary account – Decision of Administrative Committee confirmed by Full Court – Petitioner could not be treated on *par* with other Government servants – Unless it is shown that such material was totally irrelevant or that the decision is tainted and malice, which is not the case of the Petitioner, the decision cannot be interfered with – Petition dismissed. [*S. Gunasekar v. State of Tamil Nadu*]

(R. SUBRAMANIAN, J.)
2025-II-LLJ-72 (Mad)
LNINDORD 2025 MAD 346

DELETION OF NAME FROM SELECTION LIST

Principle of Natural Justice – Name of Respondent-badli worker deleted from selection list for commission of fraud with Petitioner – Corporation – Labour court directed to reinstate Respondent with back wages – Whether, impugned order of reinstatement of Respondent with back wages, sustainable – *Held*, before passing of order of deletion of name no inquiry initiated – Opportunity of explanation required to be given as it would affect right of future employment – Principle of natural justice required to be followed – No infirmity in impugned award passed by Labour court by directing to reinstate – As service of Respondent taken as badli worker no back wages could be awarded – Impugned award, modified – Petition partly allowed. [*Divisional Controller v. Sukhdevsinh Temubha Rana*]

(M.K. THAKKER, J.)
2025-II-LLJ-99 (Guj)

DISMISSAL FROM SERVICE

Fairness in Proceedings – Respondent-employee dismissed from service in consequence of an accident caused by him while driving bus – Labour Court held that inquiry conducted was fair – Single Judge noticed stand taken by Corporation before MACT that accident entirely due to negligence of lorry driver set aside order of dismissal – Whether, Single Judge rightly set aside order of dismissal of employee – *Held*, having regard to clear stand taken before MACT in its written statement Corporation made false representation before Labour Court amounting to *suggestio falsi* – Having not disclosed before Labour Court outcome of proceedings before MACT *fortiori* Corporation also guilty of *suppresio veri* – Once evidence found to be relevant and admitted arises question of its probative value – Fairness in procedure third limb of natural justice – Corporation before Labour Court and MACT tried to approbate and reprobate on same issue – Such action caused irreparable harm to Respondent – If employee admits gainful employment *quantum* of back wages is in realm of discretion of court – Corporation indulging in misadventure of suppressio veri and *suggestio falsi* – Impugned order modified in awarding 100% back wages to 75% back wages with full terminal benefits – Appeal disposed of. [*MSRTC v. Mahadeo Krishna Naik*]

(DIPANKAR DATTA, J.)
2025-II-LLJ-1 (SC)
LNIND 2025 SC 118

FORFEITURE OF GRATUITY

Deposit of Amount – Payment of Gratuity Act, 1972, Sections 7(4)(a) and 7(6)(a) – Petitioner-bank issued notice to Respondent-employee for forfeiture of Gratuity – Appellate authority directed Petitioner to deposit gratuity amount of Respondent No. 3 before Controlling Authority – Whether, impugned order of Appellate authority, sustainable – *Held*, punishment of dismissal from service subject to appeal which was pending before Appellate authority – Criminal proceedings initiated against employee pending and matter was *sub-judice* – Act of forfeiture of gratuity premature and Petitioner rightly directed to await outcome of investigation – Once Section 7(4)(a) of Act invoked requiring Petitioner to deposit admitted amount of gratuity then authorities have taken note of dispute raised by Petitioner with regard to the admissibility of *quantum* of payment of gratuity payable to the respondent-workman – Employer could not escape his liability to deposit amount as provided in Section 7(4)(a) of Act – Said deposit subject to outcome of investigation of criminal proceedings – If Petitioner wishes to forfeit gratuity of Respondent-employee then he need to comply with Section 7(6)(a) of Act – Impugned appellate order, modified – Petition dismissed. [*Canara Bank v. Appellate Authority*]

(ALOK MATHUR, J.)
2025-II-LLJ-56 (All)

GRATUITY

Determination of Amount – Payment of Gratuity Act, 1972, Section 7(1) and 7(2) – Respondent No. 3 sought gratuity by filing application before Controlling Authority – Controlling Authority directed Petitioner to pay amount to Respondent No. 3 along with interest – Whether, Petitioner entitled to gratuity amount – *Held*, Section 7 of Act deals with mode and manner of payment – Section 7(2) of Act provides that Employer shall determine amount of Gratuity irrespective of application of employee under Section 7(1) of Act and intimate to employee – Employer required to inform to Controlling Authority – Employer irrespective of application of employee duty bound to determine amount of gratuity and pay it within 30 days from date it becomes payable – Petitioner never determined amount of Gratuity and intimated to employee – Petition dismissed. [*S.D. Modern Public School v. Appellate Authority*]

(JAGMOHAN BANSAL, J.)
2025-II-LLJ-19 (PNH)
LNIND 2024 PNH 9

INDUSTRIAL DISPUTE

Justifiability of Reference – Industrial Disputes Act, 1947, Section 10(1) – Respondent no. 1 raised industrial dispute seeking reinstatement – Labour Commissioner referred same to labour court – Whether, Commissioner justified in referring such dispute – *Held*, formation of the opinion which is the preliminary stage in discharge of the functions under section 10(1) and is condition precedent to the exercise of power by the appropriate government was lacking – Order of reference made without arriving to subjective satisfaction regarding existence of dispute – Employer-employee relationship between management and the worker concerned is *sine qua non* for holding that workman of the employer from whom they claimed relief – Appropriate government without satisfying it, said on facts and circumstances brought to its notice that an industrial dispute existed or apprehended, passed an order making a reference under section 10 of Act – Impugned order of making reference without arriving to subjective satisfaction, set aside – Matter remanded back – Petition allowed. [*Cadila Pharmaceuticals Ltd v. XYZ*]

(M.K. THAKKER, J.)
2025-II-LLJ-85 (Guj)

MINIMUM WAGES

Recovery Notice – The Minimum Wages Act of 1948, Section 27 – Government issued orders against Petitioner-Bank fixing pay and allowances of its employees – Labour Department found that minimum wages was not paid to certain watchmen – Whether, Minimum Wages Notifications could be applicable to Petitioner – *Held*, Notification intended to apply only to employees of Security Services alone and Petitioner being Bank not involved in any Security Services – Under Section 27 of Act, Appropriate Government has power to add in Schedule any employment in respect of minimum rates of wages fixed – Adding of employments in Schedule being statutory process when Employment in Banks is added as different head – Minimum wage notification could not be applied to Employment in Banks – Show-cause notices and recovery notices, set aside – Petitions allowed. [*Kerala State Co-Operative Bank v. Deputy Labour Commissioner*]

(N. NAGARESH, J.)
2025-II-LLJ-214 (Ker)

PENSION SCHEME

Provident Fund Contribution – Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Sections 2(f) and 7-A – Commissioner by his order passed under Section 7-A of Act, concluded that Appellant liable to pay employees provident fund contribution for some of employees not covered by any pension scheme – Whether, impugned order sustainable – *Held*, once Institution has got a Scheme by

which substantial portion of its employees covered by Contributory Provident Fund Scheme, Central Act would not apply and the same cannot be invoked for part time employees – Clear from Section 2(f) of Act that even contractual employees would come within such definition therefore if scheme of Institution did not cover certain clause of employees then exclusion would not be available and those employees who are not covered by pension scheme would be entitled to the cover – Appeal dismissed. [*TN Grama Bank v. Regional PF Commissioner – II*]

(R. SUBRAMANIAN, J.)
2025-II-LLJ-79 (Mad)
LNIND 2025 MAD 630

PERMANENT STATUS

Contract Labour – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, Section 3 – Industrial Disputes Act, 1947 – Contract Labour (Regulation and Abolition) Act, 1970, Section 10 – Workmen sought permanence as workmen being employed continuously for 480 days in period of 24 calendar months – Impugned order passed by authority under Act 1981 directing conferment of permanent status to Respondents-contract labourers – Whether, workmen entitled to permanent status – *Held*, permanence in post could be granted only when the posts are substantive posts and not otherwise – Conditions requisite for regularization that appointment should be made by an competent authority and appointment should be made against sanctioned vacancy – Person who claims conferment of permanent status under Sectio 3 of Act 1981 should be workman employed in industrial establishment – Workmen were contractual labourers established from material – Workmen were paid salary from contractors and not by Board – Merely because the Board as well as the contractors have not registered in terms of the Act 1970, it cannot be implied that there exists a relation of employer-employee between the Board and the workmen – Through, contract labour abolished under Section 10 of Act 1970 but in absence of specific notification workmen employed under contract labour not entitled to claim absorption – In the absence of any specific notification, the workmen employed under contract labour are not entitled to claim absorption – Workmen could not claim any right to permanency – There being no appointment, Act 1947, Act 1981 and Act 1970 could not be invoked – Impugned orders, set aside – Petitions allowed. [*Executive Engineer, TWAD v. Labour Inspector*]

(M. DHANDAPANI, J.)
2025-II-LLJ-160 (Mad)

PROVIDENT FUND CONTRIBUTION

Contract Labourers – Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Sections 2(f) and 16 – Order passed by Respondent no. 2 wherein it was held that Act, 1952 applies to Petitioner insofar as the contract-employees engaged by them are concerned and the Petitioner was directed to pay a specified sum towards the provident fund, pension fund, deposit linked insurance fund schemes and administrative charges, in respect of the contract workers engaged by them, hence this petition – Whether, Act applicable to Petitioner establishment – *Held*, perusal of Section 2(f) of Act makes it clear that "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer, and includes any person employed through a contractor in or in connection with the work of the establishment – If the contractor fails to make the provident fund contribution, the principal employer has to ensure payment of provident fund contribution – Petitioner could not shift burden to contractors – Impugned order warrants no interference – Petition dismissed. [*TNEB, Vellore v. Presiding Officer, EPFT*]

(M. DHANDAPANI, J.)
2025-II-LLJ-128 (Mad)
LNINDORD 2025 MAD 407

REFERENCE OF INDUSTRIAL DISPUTE

Interim order by Government – Industrial Disputes Act, 1947, Section 10B – Respondent No. 1 directed payment of interim wages in favour of workman of Petitioner-Management – Whether, when matter already pending before Tribunal, Government erred in passing interim order – *Held*, once dispute referred to Labour court or Tribunal, the Government has no power to pass interim order under Section 10-B of Act – If Government chooses to exercise power under Section 10-B of Act before referring the matter to the Labour Court or the Industrial Tribunal or simultaneously chooses to pass interim orders and refer the dispute to the Industrial Tribunal, the Government has to hear Union as well as Management before passing the interim order – While exercising power under Section 10-B, the Government has to arrive at a conclusion that the industrial dispute exists or industrial dispute is apprehended – While passing impugned order, Government had not heard Management thus principles of natural justice, violated – When impugned interim order passed, matter already pending before Tribunal – Government *erred* in passing interim order – Impugned interim order, set aside – Petition allowed. [*Management of MAPL v. Principal Secretary*]

(ANANT RAMANATH HEGDE, J.)
2025-II-LLJ-203 (Kant)

SUBSISTENCE ALLOWANCE

Employee – Tamil Nadu Payment of Subsistence Allowance Act, 1981, Section 2(a) – Single Judge held that Appellant was engaged in supervisory capacity and was drawing a salary of more than Rs. 15,000/- per month and hence he won't be an employee within definition of Section 2(a) of Act 1981 and therefore, set aside orders passed by the Authorities for subsistence allowance, hence these appeals – Whether, Single Judge erred in concluding that Appellant was not employee as per Section 2(a) of Act – *Held*, Appellant working in dispatch section – Responsibilities assigned to him *viz.* Supervising the loading, all other acts are ministerial acts done by him in his capacity as an employee – Except Clause 4 which relates to supervising the loading operations in the wagon all the other works done by him are not supervisory – Order of dismissal was marked as exhibit in proceedings before Authority – Appellant could not claim that he was unaware of order of dismissal – Appellant being employee under Section 2(a) of Act entitled to subsistence allowance only from date of suspension till date of dismissal – For remaining period, employee would not be entitled to subsistence allowance – Appeal partly allowed. [*S. Selvaraj v. Assistant Commissioner of Labour*]

(R. SUBRAMANIAN, J.)
2025-II-LLJ-122 (Mad)
LNIND 2025 MAD 867

TERMINATION

Justifiability – Industrial Disputes Act, 1947, Sections 20 & 33 – Executive Member of Petitioner's trade union terminated from service – Labour Court rejected claim of workmen and held that management justified in imposing punishment of dismissal – Whether, non-employment of workmen, justified – *Held*, section 20 of Act clear as to when conciliation proceedings conclude – Neither any memorandum of settlement signed between parties upon reinstatement nor any failure report sent by conciliation officer – Until such time conciliation pending – Neither any permission taken nor any approval obtained – Entire proceedings violate Section 33 of Act – Management for reasons best known to them first terminated workmen then reinstated and again initiated action against them – Non-employment of all workmen *void* under Section 33 of Act – Workmen stayed away from enquiry and remained *ex parte* – *In lieu* of reinstatement, back-wages and all other claims, compensation can be awarded – Petition partly allowed. [*FAIR Thozhilalargal Sangam v. Fine Automative & Industrial*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-II-LLJ-29 (Mad)

LNINDORD 2025 MAD 150

Reinstatement – Tamil Nadu Act 5 of 1988 (State Amendment), Section 2A(2) – Industrial Disputes Act, 1947, Sections 25F(a) and (b) – The Central Amendment Act 24 of 2010 – Constitution of India, 1950, Article 254(2) – Service of workman terminated by Management – Labour Court concluded that case did not involve termination but rather voluntary abandonment of service – On remand, Labour Court accepted management's stand and dismissed application for the production of documents – Whether, Labour Court's order, sustainable – *Held*, where Respondent-establishment falls under jurisdiction of State Government only, Act of 1988 applicable and not Central Amendment – Earlier State amendment would prevail despite subsequent Central amendment to Act 1947 – Having held that the State Amendment (T.N. Act 5 of 1988) applies to this case, the question of limitation does not arise – Dispute is not barred by limitation, as Section 2A(2) of the State Amendment which applies to Tamil Nadu does not prescribe any limitation period – No inquiry conducted before termination – Workman never intended to abandon service – Since mandatory conditions under Section 25F(a) and (b) not complied with termination *void ab initio* – Impugned award, set aside – Respondent Management directed to reinstate workman with continuity of service – Petition allowed. [*R. Kariamal v. Management of Raj T.V. Network Ltd*]

(DR. A.D. MARIA CLETE, J.)
2025-II-LLJ-132 (Mad)

Requisite Qualification – Respondent-employee terminated from services for not possessing necessary qualification – By impugned award, employer was directed to reinstate employee by setting aside order of termination – Whether, Tribunal erred in setting aside order of termination – *Held*, initial order of termination not questioned by employee and he had accepted said order – Respondent did not disclose that he was terminated on earlier occasion for not possessing requisite qualification – Employment was not yet confirmed and it was subject to verification of records – Petitioner established that employee did not possess necessary qualification to be employed under Petitioner – Cause of action for second termination was second employment and not the first employment thus principle of double jeopardy not applicable – Impugned award, set-aside – Petition allowed. [*Mahindra Satyam Ltd v. Ajay Bhagat (Major)*]

(ANANT RAMANATH HEGDE, J.)
2025-II-LLJ-68 (Kant)
LNINDORD 2025 KANT 1015

Workman – Industrial Disputes Act, 1947, Sections 2 (A)(2) and 2 (s) – Sales Promotion Employees (Conditions of Service) Act, 1976, Sections 2(d) and 6(2) – Petitioner/Workman, was terminated from service – Claim petition filed by Petitioner, rejected by Labour Court holding that he was not Workman – Whether, Petitioner being Sales Promotion Employee or Medical Representative was workman – *Held*, Sales Promotion Employees or Medical Representatives do not fall within definition of Section 2(s) of Act – As per Section 6(2) of Act 1976, if person comes within definition of term Sales Promotion Employee then Act 1947 in force for time being shall apply to Sales Promotion Employees – As per Section 2(d) of Act 1976, Petitioner would fall within definition of Sales Promotion Employee – Petitioner entitled to approach Labour Court under Section 2(A)(2) of Act 1947 for redressal of his grievances – No domestic enquiry conducted to prove misconduct – Non-employment of Workman, not justified – Workman entitled to reinstatement – Since he attained age of superannuation he would be awarded 75% of back wages – Petition allowed. [*M. Venkatasubramaniam v. Presiding Officer*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-II-LLJ-44 (Mad)
LNINDORD 2025 MAD 71

VACATION LEAVE

Notice – Industrial Disputes Act, 1947, Section 9A – Industrial Disputes (Karnataka) Rules, 1957, Rule 35 – Payment of Gratuity Act, 1972 – Petitioner-Establishment issued notice under Section 9A of Act 1947 reverting to divisor 30 instead of 26 for vacation leave – Tribunal ruled in favour of Respondent-Union – Whether, Tribunal *erred* in holding that Notice under Section 9A of Act of 1947, invalid – *Held*, leave encashment is service condition which could be changed by employer – Manner of giving notice to be understood with reference to Rules 35 of Rules 1957 and not Section 9A of Act 1947, alone – As per Rules 35 of Rules individual notice through registered post to be served on Trade Union and not workmen – Notice required to be published on main entrance of establishment and copy sent to Trade Union to comply with Section 9A of Act, 1947 – Act 1972, not applicable – Board approved decision taken by Deputy General Manager – Requirements of Section 9A read with Rule 35 not considered by Tribunal – Board alone could not change divisor – Impugned award, set aside – Petition allowed. [*Management of BEML v. General Secretary*]

(ANANT RAMANATH HEGDE, J.)
2025-II-LLJ-187 (Kant)

MAY

ACCIDENT IN COURSE OF EMPLOYMENT

Compensation – Employees' Compensation Act, 1923, Sections 3(1) and 4(A) – Respondent No. 1 /Claimant, legal heir of deceased, sought for compensation from Appellant-employer after death of her husband, who died in accident during course of employment – Commissioner concluded that Appellant was liable to pay compensation, hence this appeal – Whether, employer liable to pay compensation – *Held*, Section 3(1) of Act provided that employment does not necessarily end when workman leaves workshop – Employees compensation piece of socially beneficial legislation – Employment might end when he used means of access and egress to and from place of employment – Accident and consequential death was during course of and arising out of employment – Insurance policy obtained for one unit would not extend its coverage to another unit – Compensation re-determined by taking actual monthly wages of deceased at time of his death – Employers were defaulters in terms of Section 4(A) of Act – Employer liable to pay penalty of compensation amount in addition to interest – Appeal dismissed. [*Managing Director v. Manisha w/o Ramdhan Jadhav*]

(S.G. CHAPALGAONKAR, J.)
2025-II-LLJ-399 (Bom)
LNIND 2025 AUG 25

Liability to Pay Compensation – Employees' State Insurance (ESI) Act, 1948, Section 53 – Employee's Compensation Act, 1923, Sections 10B and 12(2) – Industrial Disputes Act, 1947, Sections 2(ra), 25-T and V Schedule – Petitioner-contract labourer sought for compensation in connection with accident occurred while discharging his duties but denied by Respondents – Whether, Petitioner entitled to compensation for accident occurred during course of his employment – *Held*, in absence of ESI coverage, the provisions of Act, 1923 would be applicable and bar under Section 53 of Act 1948 would not be applicable – Documents produced by Respondent lacks credibility aimed at absolving Board from its obligation to provide compensation – Accident occurred on time when workers directly under control of Board – Accident sustained by Petitioner must be considered having arisen out of and in course of employment with Board – Under Section 10B of Act 1923, statutory duty of employer to promptly report serious bodily injury but no such report submitted by Board – Absence of humanitarian gesture towards Petitioner – No subsisting contract between Board and Contractor at time of accident – Board being principal employer liable to pay compensation as per Section 12(2) of Act – Board engaging in clear

unfair labour practice under Section 2(ra) read with V Schedule violating Section 25-T of Act 1947 – Compensation amount fixed considering medical expenses and grievous nature of injuries – Respondent no. 1 directed to pay compensation – Petition allowed. [*S. Sivakumar v. Chairman, TNEB*]

(DR. A.D. MARIA CLETE, J.)
2025-II-LLJ-284 (Mad)

Recovery Right – Employees' Compensation Act, 1923, Sections 3 & 4A(3) – Compensation sought by Respondent No. 1-claimant employee who suffered permanent impairment in relation to accident in course of employment – Commissioner granted compensation – Whether, recovery rights granted to Appellant-Insurance Company and also imposition of penalty upon registered owner sustainable in law – *Held*, as per disability certificate, claimant suffered permanent non-progresses injury thus rendered incapable of gaining any employment as driver therefore loss of earning capacity rightly reckoned 100% - Section 4A(3) of Act not complied with by registered owner – Impugned order insofar recovery rights to Appellant-Insurance company under Section 3 read with Section 4A(3) of Act, not sustainable – Appellant failed to prove violation of conditions of policy therefore liable to make payment of total compensation – Penalty imposed upon registered owner for his own default in not making payment of compensation to employee within stipulated period could not be fastened upon Insurance company – Appeal filed by Insurance company, dismissed – Appeal filed by registered owner, partly allowed. [*National Insurance Co. Ltd v. MD. Safat*]

(DHARMESH SHARMA, J.)
2025-II-LLJ-306 (Del)
LNIND 2025 DEL 1705

COMPASSIONATE APPOINTMENT

Rejection of claim – Petitioner, divorced daughter of deceased employee, sought appointment on compassionate ground which was rejected by Director, hence this petition – Whether, Petitioner entitled for compassionate appointment – *Held*, well settled that existence of a policy was a sine qua non for making compassionate appointment – in absence of any policy decision of Government enabling family members of deceased employee to claim compassionate appointment, the Petitioner had no right to claim compassionate appointment – Impugned order did not warrant interference – Petition dismissed. [*Chaitali Roy (Mandal) v. State of West Bengal*]

(HIRANMAY BHATTACHARYYA, J.)
2025-II-LLJ-271 (Cal)
LNIND 2025 CAL 950

COMPULSORY RETIREMENT

Back wages – Constitution of India, 1950, Articles 14 and 19(1)(d) – Petitioner-Appellant awarded punishment of compulsory retirement by disciplinary as well as by Appellate authority – Single Bench set aside punishment and directed Respondents to grant notional benefits, however, declined to pass an order for payment of back wages, hence this appeal – Whether, Single Bench *erred* in not passing order for payment of back wages – *Held*, there is no whisper at all by Petitioner that since the day of his termination from service till the date of imposition of his punishment or even at the time of filing of petition he was not employed anywhere gainfully or on lesser wages – No specific prayer has also been made in the writ petition for grant of back wages – upon having released on bail on 30.10.2010 from custody till date of imposition of punishment on 23.11.2012, he did not report on the ground of ailments nor did he express any desire to join – No more *res integra* that direction towards payment of back wages is a discretionary power which has to be exercised by a court keeping in mind the facts in their entirety and neither a strait jacket formula nor a rule of universal application can be laid down in

such cases – Appellant miserably failed to produce any material on record to prove that during the entire period of his suspension he remained unemployed, hence, discretion in favour of Appellant could not be exercised – Appeal dismissed. [*Sri Man Mohan Kumar Shahu v. Union of India*]

(PARTHA SARATHI SEN, J.)
2025-II-LLJ-276 (Cal)
LNIND 2024 CAL 2518

CONTRACT WORKER

Pay Scale – Contract Labour (Regulation and Abolition) Central Rules, 1971, Rule 25(2)(v)(a) – Contract Labour (Regulation and Abolition Act, 1970, Section 12(1) – Commissioner directed Petitioners to make *parity* with regular workers directly employed by Petitioner No. 2 and fix their pay in a revised pay band and scale – Whether, industrial dispute pending for adjudication could be mixed up with application under Rule 25(2)(v)(a) of Central Rules – *Held*, as per Rule 25(2)(v)(a) of Central Rules, authority empowered to fix wage rate taking into account wage rules obtaining in similar employment – Petitioners not denied that those posts vacant – Management had full knowledge that matter was time bound – No request to cross-examine was ever made by Petitioners to Authority – Persons issuing certificate were Officers of management, therefore no reasons to hold that certificates issued by unauthorized persons – Employees working on permanent establishment – Vacuum of vacancies due to retirement not filled through direct recruitment – Rule 25(2)(v)(a) of Central Rules read with Section 12(2) of Act 1970 entitles contract workers performing same kind of work at same wage rates – Contract workers doing work of regular workmen directly appointed by Principal Employer – Petitioners ought to have supplied details of pay band to similarly workers – Impugned order need no interference – Petition dismissed. [*Council of Scientific v. Deputy Chief Labour Commissioner*]

(M.S. JAWALKAR, J.)
2025-II-LLJ-384 (Bom)

DISCIPLINARY PROCEEDING

Withholding of Pension – Bihar Pension Rules, 1950, Rule 43(b) – Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, Rule 17 – Petitioner inflicted with punishment of withholding of permanent pension by order passed by District Magistrate-cum-Collectorate on charge of accepting bribe – Whether Petitioner would be entitled to get provisional pension which shall in no case be less than 90%, in terms with rule 43(c) of Rules, 2005 which was in force at the time of superannuation of Petitioner – *Held*, the memo of charge only speaks of the charge of accepting bribe, but, neither any document nor any witnesses have been produced to support the said charge – The only charge against the Petitioner was being apprehended while accepting bribe; there is no other charges alleging the act of the petitioner constituting misconduct and of unbecoming of a government servants, attracting the penal provisions of the Bihar Government Servant's Conduct Rules, 1976 – The order of the punishment relies only upon the FIR registered against the petitioner, which could not have been treated as evidence unless the contents thereof is proved by examination of the witnesses – Once the order inflicting withholding of 100% pension for life time stood set aside and thus except a pending judicial proceeding, there is no departmental proceeding, thus, the case of the Petitioner ought to be considered under rule 43(c) of the Rules 1950 – Petition allowed. [*Mushafir Singh v. State of Bihar*]

(HARISH KUMAR, J.)
2025-II-LLJ-298 (Pat)

DISMISSAL

Illegal Gratification – Respondent dismissed from service by Appellant in view of his conviction for demanding and accepting illegal gratification – Single Judge upheld punishment of dismissal from service, however, Division bench set aside order of dismissal, hence this appeal – Whether, order of Division Bench, sustainable – *Held*, even in a criminal case pertaining to demand and acceptance of illegal gratification, the courts are empowered to record conviction, where the decoy turns hostile, and the prosecution case is based purely on the evidence of the Trap Laying Officer and the trap witnesses – All that is required on the part of the Disciplinary Authority is that it should examine the evidence in the disciplinary proceedings and arrive at a reasoned conclusion that the material placed on record during the course of enquiry establishes the guilt of the *delinquent* employee on the principle of preponderance of probabilities – This is precisely what was done by the Disciplinary Authority and the Appellate Authority while dealing with the case of the Respondent – Division Bench fell into grave error in substituting the standard of proof required in a criminal trial *vis-à-vis* the disciplinary enquiry conducted by the employer – impugned judgment passed by the Division Bench, unsustainable in the eyes of law and is hereby set aside – Appeal allowed. [*Airports Authority of India v. Pradip Kumar Banerjee*]

(SANDEEP MEHTA, J.)
2025-II-LLJ-241 (SC)
LNIND 2025 SC 125

Sustainability – Respondent-employee dismissed from service for causing breach of trust – Labour Court held termination illegal and directed for reinstatement – Whether, impugned order of Labour court, sustainable – *Held*, Respondent had no legal right to continue in the corporation when found guilty of theft – Nothing wrong in Petitioner losing confidence upon such employee and awarding punishment of removal – Once act of misappropriation proved, no question of showing sympathy – Respondent himself admitted charge – Court converted itself into Court of appeal as Appellate Authority – Impugned order of Labour Court, set aside – Termination order, upheld – Petition allowed. [*Co-Op MPU Ltd v. Rameshbhai Shankarbhai P.*]

(M.K. THAKKER, J.)
2025-II-LLJ-264 (Guj)

MISCONDUCT

Forfeiture of Gratuity – Payment of Gratuity Act, 1972, Section 4(6) – Canara Bank Staff Provident Fund Regulations, Regulation No. 19 – Petitioner challenged communication forfeiting gratuity and provident fund payable to him consequent to his dismissal from service accusing him of misconduct – Whether, Respondent justified in forfeiting gratuity – *Held*, since Petitioner convicted for offences, he was not entitled to any gratuity in view of Section 4(6) of Act – Regulation No. 19 of Bank Regulations enabled bank to deduct amount contributed by it to adjust loss caused by act of employee but not authorize bank to forfeit amount contributed by employee – Petitioner entitled to limited relief of direction to Respondent to refund amount contributed by Petitioner to provident fund – Petition partly allowed. [*L.S. Dinamani v. Management of Canara Bank*]

(R. NATARAJ, J.)
2025-II-LLJ-451 (Kant)

PROVIDENT FUND SCHEME

Pensionary Benefits – Respondent who exercised his option to switch over to Pension Scheme sought for pensionary entitlements before Respondents – Tribunal held that he was entitled to the benefit of Pension Scheme on basis of 1992 Office Order – Whether, Respondent entitled to benefit of

Pension Scheme – *Held*, if an employee did not exercise any option to continue under Contributory Provident Fund (CPF) scheme within time stipulated would *ipso facto* be deemed pension optee – Availment of CPF benefits irrelevant and he could be directed to return CPF benefits – Consequence arises by inexorable operation of law could not be wished away by assertions to contrary – No specific denial of Respondent's that he had requested on retirement that CPF benefits be not credited to his account – Once Respondent had not submitted any option following 1992 Office Order, Respondent became deemed pension optee thus non-exercise of option pursuant to 2002 Office Order makes no difference – Not permissible for establishment to deny to employee benefits of being deemed pension optee – Employee as well as Corporation continued to contribute to CPF would make no difference – Employee entitled to claim to be deemed pension-optee – Impugned judgement of Tribunal, modified – Petition disposed of. [*Delhi Transport Corporation v. Anil Luthra*]

(C. HARI SHANKAR, J.)
2025-II-LLJ-325 (Del)

REINSTATEMENT

Interest on Backwages – Industrial Disputes Act, 1947, Section 33C(2) – Petitioners-workman sought for interest on amounts arising out of implementation of award for reinstatement and backwages – Tribunal partly allowed such application to limited extent of denial of interest on amount of wages – Whether, Tribunal has jurisdiction to award interest on amount of wages – Whether, Tribunal has jurisdiction to award interest on amount arising out of implementation of the award – *Held*, interest could be awarded on delayed payment of dues arising out of implementation of award – Labour Court had no jurisdiction to first decide workmen's entitlement then to compute benefit exercise of its power under Section 33C(2) of Act – It is only when the entitlement has been earlier adjudicated or recognized by the employer, jurisdiction under Section 33-C(2) could be exercised merely as an executing court by leaving ambiguity if any in exercise of power to interpret the decree – Respondent-Bank went on litigating till dismissal of appeal – Court justified in awarding interest under Section 33-C(2) of Act – Bank should not be permitted to take advantage of its own wrong by not implementing award for over long years – Interest awarded – Petition allowed. [*Vijay Shankar Patil v. UCO Bank*]

(SANDEEP V. MARNE, J.)
2025-II-LLJ-365 (Bom)
LNIND 2025 BOM 242

TERMINATION

Back wages – Industrial Disputes Act, 1947, Section 17B – Labour Court, held that the Petitioner's decision to dismiss the Respondent from service is *void* and directed Petitioner to pay to Respondent 75% of the back wages from the day of dismissal till the date of his superannuation along with continuity of service and all financial benefits including pensionary benefits – Whether, Labour justified in directing 75% of back wages to Respondent – *Held*, Petitioner has discharged the initial burden filing an affidavit for relief under Section 17-B of Act and being granted such relief on the strength of his assertion that he was not gainfully employed in 2004 and that he has remained without gainful employment on the same terms as he was employed with the Petitioner – Labour Court has granted 75% of wages without providing for deduction towards relief under Section 17B of Act that was granted – Fact that the Respondent has not been in employment with the Petitioner for over two decades prior to his superannuation was a material circumstance – Length of period for which workman remained out of employment ought to be considered by Labour Court – Impugned order modified at 50% of back wages – Petition disposed of. [*Karnataka Power Corporation v. Ganapathi Gajanana Bhat*]

(B.M. SHYAM PRASAD, J.)
2025-II-LLJ-444 (Kant)

Regularization – Workmen terminated from service because of illegal strike which had raised into industrial disputes – Labour Court directed reinstatement with back wages on conclusion that University committed unfair labour practice – Writ Court confirmed findings of Labour Cour – Whether, workmen who had worked for sufficient number of years would be entitled to regularization – *Held*, University created without man power to engage persons temporarily and after extracting work from them for sufficient number of years to disengage them without assigning reason – Need for workmen and man power in University – University assured employees would be regularized – Employees would not be entitled to monetary benefits – University directed to regularize services of such employees with effect from date of award – Appeals disposed of. [*Registrar, Thiruvalluvar University v. Principal LC*]

(R. SUBRAMANIAN, J.)
2025-II-LLJ-414 (Mad)
LNIND 2025 MAD 1290

Reinstatement – Petitions challenging awards passed by Labour Court in favour of respective workmen granting relief of reinstatement with full back wages and continuity of services – Whether Labour Court was right in determining that workmen were illegally terminated by Management – Whether Labour Court was right in granting relief of reinstatement with full back wages and continuity of services to workmen – *Held*, there was no project in existence in place of employment as on date when workmen went to report for their duty – Management had power to transfer workmen to another place at any occasion – Although it was claimed by Management that workmen were offered to get transferred and same was refused by them, Management failed to substantiate said claim with any material proof – It was inferred by testimonies of workmen that no communication with that regard has been provided by Management, thereby, amounting to wrongful and illegal termination of services of workmen – Position in which workmen were earlier employed was not in existence as same had ceased to exist with completion of said project – There was lapse of considerable period of time from date of alleged termination – Relief of reinstatement with full back wages and continuity of services could not be granted – Relief of monetary compensation *in lieu* of reinstatement was appropriate relief to which workmen were entitled to due to illegal termination of their services in terms of peculiar facts and circumstances of case – Award passed by Labour Court partly set aside and modified – Petitions partly allowed. [*Appollo Hospitals Enterprises v. Suresh Malik*]

(CHANDRA DHARI SINGH, J.)
2025-II-LLJ-457 (Del)
LNIND 2025 DEL 339

Reinstatement – U.P. Industrial Disputes Act, 1947, Sections 6E and 6N – Appellant-Workmen raised industrial dispute seeking regularization of their services but services were terminated orally without notice – Labour Court held that termination was illegal for want of compliance with Section 6N of Act and directed reinstatement – High Court partially modifying relief directed re-engagement of workmen, hence these appeals by workmen and employer – Whether, High Court rightly awarded Appellant to future daily-wages engagement – *Held*, unilateral alteration in service conditions including termination impermissible during pendency of proceedings unless prior approval obtained from appropriate authority under Section 6E of Act – Respondent-Employer had not sought for requisite approval – Retrenchment obligations under Act must be met in all cases attracting Section 6N of Act – Pattern of wage disbursement negates narrative that they were contractor's personnel – Principle of equal pay for equal work could not be casually disregarded – Employer's discontinuation of Appellant violated of most basic labour law principles – Impugned order to extent they confine Appellant Workmen to future daily-wages engagement without continuity or meaningful back wages, set aside with directions – Appeals by workmen, allowed – Appeals by Respondent, dismissed. [*Shripal v. Nagar Nigam*]

(VIKRAM NATH, J.)
2025-II-LLJ-254 (SC)
LNIND 2025 SC 129

VOLUNTARY RETIREMENT

Withholding Retirement Benefits – Karnataka Civil Services Rules (KCSR), Rule 214(2)(b) – Office memorandum issued by Respondent no. 2 withholding Death-cum-Retirement-Gratuity and Commuted Value of Pension payable to Petitioner on his retirement till finalization of audit process – Whether, impugned memorandum, sustainable – *Held*, Petitioner submitted application for voluntary retirement and concerned authorities issued No Objection Certificates – Under Rule 214(2)(b) of KCSR, no departmental proceedings could be initiated against Government servant post his retirement or during his re-employment, if it is in respect of any event which took place more than four years before such institution – Respondents proposed to recover said amounts long after retirement – Impugned official memorandum issued by Respondent No.2, quashed – Petition allowed. [*R.S. Gururaja v. Managing Director, KUWSDB*]

(R. NATARAJ, J.)
2025-II-LLJ-454 (Kant)

JUNE

CLOSURE COMPENSATION

Lay off compensation – Industrial Disputes Act, Sections 24, 25-F, 25-M, 25-O – Tribunal passed award directing 1st Respondent to pay closure compensation to workers against claim of lay off compensation and reinstatement, hence this petition – Whether workers were entitled to lay-off compensation or closure compensation – *Held*, present case was not case of lock-out under section 24 – Lock-out was for purpose of suspending work or refusal by employer to continue to employ any number of persons employed – Unit was not kept locked out for purpose; rather unit was closed once for all, as survival of unit was put in peril due to act of workmen in adopting go-slow tactics – Inspite of lay-out, which was extended four times, workmen did not revert back to normal work, thereby forcing employer/1st Respondent to issue notice of closure under section 25-O – Business enterprise itself was closed, evident from surrender of various licenses issued by Governmental authorities and electricity supply to unit by 1st Respondent – Act of 1st Respondent showed that it had literally closed unit, as per its notice to Government under section 25-O (1), meaning thereby, that unit had ceased to function and business itself stood closed – 1st Respondent had followed provisions of Section 25-O, while closing business and no infraction with provisions mandated, as necessary notice period had been given to Government as also to workmen before 1st Respondent was closed – Tribunal concluded that 1st Respondent had closed business establishment under Section 25-O, which was based on proper adjudication of materials and said finding did not require interference – Once Tribunal concluded that 1st Respondent had closed undertaking, workmen would only be entitled to closure compensation and not lay-off compensation, and had ordered closure compensation in accordance with Section 25-F, to be paid by 1st Respondent to workmen – Petition dismissed. [*Workmen of Mirra & Mirra Ind. V. Mgmt. of Mirra & Mirra Ind.*]

(M. DHANDAPANI, J.)
2025-II-LLJ-671 (Mad)
LNINDORD 2025 MAD 1093

COMPASSIONATE APPOINTMENT

Entitlement – Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness (Fifth Amendment) Rules, 1999, Rule 5 – Constitution of India, 1950, Articles 14, 16 & 21-A – Right to Education Act, 2009, Section 3 – Petitioners sought appointment as Assistant Teacher on compassionate grounds before Respondent-authority – Whether, Petitioners entitled to be appointed as Assistant Teacher on compassionate grounds – *Held*, Rule 5 of Rules 1999 contemplates grant of

employment provided applicant fulfills educational qualifications required – Constitution under Article 21A cast obligation on State to fulfill right to education of children – Right of children to education under Act 2009 envisages quality education and no less – Claims made under Government Orders for appointment as teachers on compassionate grounds have to reckon with fundamental right to education guaranteed to children under Article 21-A – Government Orders in direct conflict with Rule 5 of Rules 1999 as statutory powers could not be curbed by Government Orders – Government Orders relate to compassionate appointment violative of Section 3 of Act 2009 *ultra vires* Articles 14, 16 and 21-A of Constitution – State Government is accordingly directed to forthwith cease the implementation of the Government Orders – Matter remitted to Respondents – Petition disposed of. [*Shailendra Kumar v. The State of U.P*]

(AJAY BHANOT, J.)
2025-II-LLJ-607 (All)

CONTRACT LABOURER

Permanent Status – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, Section 3 – Industrial Disputes Act, 1947, Section 12(3) – Petitions challenging orders passed by Assistant Commissioner of Labour/1st Respondent, which conferred permanent status to individual workmen/Respondents initially appointed directly by Petitioner/management and later transitioned to contract labourers – Whether orders passed by 1st Respondent conferring permanent status on respective Workmen liable to be upheld – *Held*, workmen could not be non-suited, and provisions of Act 1981 could not be interpreted in way that excludes their applicability to Public Sector Undertakings that had established statutory rules, etc. – Merely because workmen were subsequently transferred to contractor and there was no employer-employee relationship, could not serve as grounds to set aside award or to non-suit workmen – Had Petitioner itself granted permanency, there would not have been occasion to transfer them under contractor or classify them as non-employees – When Workmen were directly employed by Petitioner, mere action of placing them under contractor at later date did not alter jurisdiction of authority under Act 1981, and awards could not be annulled on this basis – 12(3) settlement entered into at relevant time could not nullify rights of these Workmen who were not included in 12(3) settlement from approaching adjudicating authority under Act – Workmen had successfully proven that they had completed 480 days of service within period of two calendar months and, entitled to be granted permanent status upon completing 480 days, as awarded by 1st Respondent upheld – Petitions disposed of. [*Chairman, TANGEDCO v. Asst. Commissioner of Labour*]

(D. BHARATHA CHAKRAVARTHY, J.)
2025-II-LLJ-527 (Mad)

DENIAL OF EMPLOYMENT

Employer-Employee Relationship – Industrial Disputes Act, 1947, Section 17B – Karnataka Shops and Establishment Commercial Rules, 1963 – Industrial dispute raised by workman who was denied employment by Petitioner – Labour Court directed reinstatement of Respondent no. 1-workman with all benefits, hence this petition by employer – Whether, Respondent no. 1 worked directly under Petitioner – *Held*, agreement between Petitioner and Respondent no. 2-Labour Contractor executed to provide personnel for maintaining Petitioner's premises *i.e.,* providing personnel for house-keeping – Agreement does not provide for supply of any security personnel – Document does not bear the signature of second party on each page – Since document is unstamped and objection was raised before the Labour Court, and document was marked subject to objection, the document was inadmissible in evidence and does not establish the labour contract between Petitioner and Respondent no. 2 – Letter addressed to Petitioner by Respondent no. 2 did not disclose Respondent no. 1 as its employee – Copy of Form issued under Rules 1963 records name of Petitioner as employer – No evidence in regard from which date workman joined contractor – Payment made through Respondent no. 2 considered to avoid implication of continuous service to deny benefits payable to workman – As no application filed by

Workman under Section 17B of Act, workman not entitled to full backwages – Impugned award, modified – Award for payment of full backwages reduced/modified to 50% backwages – Petition partly allowed. [*Digicaptions India v. Sri A.G. Basavaraju*]

(ANANT RAMANATH HEGDE, J.)
2025-II-LLJ-553 (Kant)

DISMISSAL

Pensionary Benefits – UCO Bank (Employees') Pension Regulations, 1995 – Respondent-employee of Appellant-Bank dismissed from service by order of Disciplinary authority – Appellate authority held that Respondent would be entitled to receive terminal benefits – Labour Court substituted penalty of dismissal with penalty of stoppage of increments – Single Judge directed Appellant to process the case of the Respondent for pension and to release the pensionary dues to him expeditiously, hence this appeal – Whether, Respondent could be entitled to receive pension – *Held*, Respondent charged with committing gross misconduct as defined in Clause 19.5(c) of Bipartite Settlement between Banks Association and Workmen Union – Employee found guilty of gross misconduct might be removed from service but would be provided with superannuation benefits which would otherwise be due to him as per Regulations 1995 – Appellate authority held that Respondent would be entitled to receive terminal benefits for period of service he had rendered and such order attained finality – Respondent entitled to receive pension – No reason to interfere with findings of High Court – Appeal dismissed. [*UCO Bank v. Vijay Kumar Handa*]

(UJJAL BHUYAN, J.)
2025-II-LLJ-481 (SC)
LNIND 2025 SC 313

Right of Leave Encashment – Pragathi Krishna Gramin Bank (Officers and Employees) Service Regulations, 2013, Regulations 61 and 67 – Constitution of India, 1950, Article 300A – Petitioner who was dismissed from service for misconduct sought for leave encashment which was denied by Respondent authority – Whether an employee who is imposed a penalty of dismissal from service is entitled to grant of encashment of privilege leave – *Held*, the employee has a right to get privilege leave under Regulation 61 – Regulation 67 does not permit taking away the employee's right for encashment of privilege leave – Benefit of leave encashment to an employee is trite, a statutory right, but it has an imprimatur to the legal principle that right to receive terminal benefits is recognized as a right to property obtaining under Article 300A of the Constitution – Any attempt of the employer to take away such right of any part of terminal benefit, leave encashment, without any umbrage of a statutory provision, such action is sans countenanced – Therefore, it is a right of an employee not only under the statute, even under the Constitution of India – Impugned order, quashed – Petition allowed. [*G. Linganagouda v. G.M. Karnataka Gramina Bank*]

(M. NAGAPRASANNA, J.)
2025-II-LLJ-499 (Kant) LNINDORD 2025 DHRWD 407

REGULARIZATION OF SERVICE

Continuous employment – Constitution of India, 1950, Articles 14 and 16 – Application filed by Appellants whose services were terminated, for regularization of services – Tribunal dismissed application and same confirmed by High Court, hence this appeal – Whether, Appellants entitled for regularization of their service – *Held*, no evidence suggests their entry was through any illegal route – Their engagement was not sporadic or temporary in nature: instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts – Termination letters which were issued without prior notice violated principles of natural justice – Settled law that contractual employees entitled

to a fair hearing when their service records were unblemished – Discriminatory behaviour of Respondent-department violated Articles 14 and 16 of Constitution – Refusing regularization because their original terms did not explicitly state so would be contrary to principles of fairness and equity – Termination order, quashed – Impugned orders set aside – Appeal allowed. [*Jaggo v. Union of India*]

(VIKRAM NATH, J.)
2025-II-LLJ-489 (SC)
LNIND 2024 SC 610

TERMINATION OF SERVICE

Misconduct – Industrial Dispute Act, 1947, Sections 2 (oo) and 25-F – Service of claimant terminated for misconduct – Labour Court directed reinstatement of claimant by Petitioner-department, hence this petition – Whether, termination of services of claimant, justified – *Held*, claimant found guilty of tampering with official record – Until due opportunity afforded to claimant to defend himself, termination of services were bad – No order of retrenchment under Section 25-F of Act could be passed by way of punishment in view of Section 2 (oo) of Act – Retrenchment by way of punishment inflicted on basis of preliminary inquiry – In criminal trial, claimant acquitted – Petitioner termination of services of claimant without holding regular departmental inquiry – Order of termination of services of claimant obviously not sustainable – No perversity in impugned award – Petition dismissed. [*The Principal Secretary (Public Works) v. Shri Ramesh Chand*]

(AJAY MOHAN GOEL, J.)
2025-II-LLJ-515 (HP)

TERMINATION

Cancellation of Appointment – Respondent no. 2 through impugned order terminated service of Petitioners stating that their appointments were made without following guidelines – Whether, Respondents justified in cancelling appointments of Petitioners – *Held*, Respondent-Corporation without following guidelines made appointments – Though disciplinary proceedings initiated against erring officials, Petitioners discharged from service since it was recruitment for particular season – Termination not preclude Petitioners from applying in future recruitment process – Petitioners being not at fault for irregularities in selection process ought not to be penalized – Respondents directed to allow Petitioner to participate in forthcoming recruitment process – Considering Petitioners' prior experience, it was reasonable to grant age relaxation – Petition disposed of. [*Maheshwaran v. Chairman & MD, TNCSC*]

(SHAMIM AHMED, J.)
2025-II-LLJ-659 (Mad)
LNINDORD 2025 BMM 484