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LEGAL NEWS

Q – 3 & 4 JULY – DEC. 2025

ALL INDIA BANK EMPLOYEES' ASSOCIATION

LEGAL NEWS
From AIBEA
BULLETIN Q – 3,4
JULY-DEC 2025

JULY, 2025

AWARD

Terms of reference – Industrial Disputes Act, 1947 – Contract Labour (Regulation and Abolition) Act, 1970, Section 10 – Labour Court passed award holding that claim of Respondent union to regularize employment of all employees from category of contract workers to regular workers from date of their employment with all benefits was lawful and justified, hence this petition by school management – Whether Labour Court travelled beyond scope of reference and award liable to be quashed – *Held*, Labour Court failed to address specific aspect of reference concerning whether demand raised by 1st Respondent union seeking absorption of contract employees as direct employees of Management was justified – Such issue could be examined by industrial adjudicator only under limited circumstances, namely where engagement of contract Labour had been abolished through notification issued under Section 10(1) of Act 1970 and further dispute arises regarding conditions of service of such labour under Act 1947 – Labour Court, instead of confining itself to terms of reference and, if necessary, holding that reference itself was invalid, exceeded its jurisdiction by passing impugned award beyond scope of reference – Petitioners established that both 2nd 3rd Respondents were registered companies, that they had entered into agreements with Petitioner School for supply of labour, that such agreements were renewed from time to time, and that School did not exercise direct control over employees – It was *erroneous* on part of Labour Court to disregard material evidence and conclude that contracts were sham and nominal – Labour Court travelled beyond scope of reference and failed to properly address both legal issues and factual matrix of case – Award quashed – Petition allowed. [*Mgmt. of PSBB School v. President, Southern Employees Assn.*]

(DR. A.D. MARIA CLETE, J.)
2025-III-LLJ-44 (Mad)

CLAIM PETITION

Recovery of losses – Industrial Disputes Act, 1947, Section 33C(2) – Payment of Wages Act, 1936, Section 7 – Labour Court passed order computing certain sum as due and payable to Respondent/workman in petition filed by him claiming sum towards earned and unearned leave, hence this petition – Whether impugned order of Labour Court, sustainable – *Held*, Labour Court concluded that Respondent was entitled to receive full salary for earned leave, disregarding that Respondent had given undertakings twice, as recorded by R1 and R2 wherein he conveyed his consent for deduction of shortages from his wages – Labor Court

overlooked that several recovery proceedings had already been initiated against Respondent, none of which were challenged before any forum – While conducting disciplinary proceedings after retirement with view to impose penalty may not be permissible, recovery of losses caused to employer could still be made, subject to applicable rules and in accordance with any consent or undertaking given by employee – Act 1936 did not impose any restrictions on deductions from employee's wages, thereby allowing recovery in accordance with terms of undertaking and applicable rules – Impugned order of Labour Court, set aside – Petition allowed. [*Management, TNCSC v. S. Vijayan*]

(DR. A.D. MARIA CLETE, J.)
2025-III-LLJ-66 (Mad)

DEATH IN COURSE OF EMPLOYMENT

Employer-Employee Relationship – Workmen Compensation Act, 1923, Section 2(dd)(ii) – Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) – Claim petition filed for grant of compensation along with interest by Appellants who were surviving legal heirs of deceased who died in course of his employment under MNREGA Scheme – Commissioner held that appellants have failed to prove employer and employee relationship between deceased and respondents therefore appellants not entitled for compensation – Whether, appellants entitled to compensation – *Held,* it was not employment to particular person but Scheme to provide work for specific days in financial year to household – Evident that deceased can never be treated as employee under Act, 1923 in terms of Section 2(dd)(ii) – Person engaged under MNREGA cannot be considered in employment of State therefore no right to claim compensation under Act 1923, for death of person occurred during the course of employment – Under Scheme 2006, in Clause 12 provides not only implied but explicit exclusion of applicability of Workmen in case of employment under MNREGA – Deceased not registered on e-Shram – At time of his employment and death no scheme to provide *ex-gratia* payment – Guidelines provided benefits cannot be provided retrospectively – Appeal dismissed. [*Geeta Devi v. Deputy Commissioner, Shimla*]

(VIVEK SINGH THAKUR, J.)
2025-III-LLJ-189 (HP)

DISMISSAL

Unauthorized Absent – Respondent dismissed from service on ground of being habitual absentee – Petition preferred by Respondent allowed by writ court and directed to be reinstated with all consequential benefit, hence this petition by employer – Whether, writ court erred in directing to reinstate Respondent – *Held*, Respondent was habitual shirker – Concept of appointment of Presenting Officer not included by Police Department in departmental enquires at relevant point of time – Settled law that non-appointment of Presenting Officer not render departmental enquiry, vitiated – From record it appears that no defence witness was produced – Respondent never raised *malafide* intention of Enquiry Officer – Enquiry Officer acted in just and fair manner giving adequate opportunity of hearing – Non-appointment of Presenting Officer for conducting enquiry not vitiate departmental enquiry – Impugned order, set aside – Petition allowed. [*The State of Madhya Pradesh v. Lal Singh Jatav*]

(ANAND PATHAK, J.)
2025-III-LLJ-196 (MP)

EMPLOYER-EMPLOYEE RELATIONSHIP

Sham Contract – Demand of enhancement of wages of Respondent-labourers found excessive by Appellant-management and their contract with contractor was terminated – Labour Court directed management to reinstate workmen – Single Judge confirmed order passed by Labour Court, hence this appeal – Whether, award passed by Court below suffers from errors and perversity – *Held,* no such cross examination to show that contract between management and contractor was sham and camouflaged – To substantiate their claim of direct employment no document produced by Respondent – No evidence placed to show that they were employees under Appellant – All documents shown that they were on Muster Roll of Contractor – Court below erred without framing issue on contract awarded by holding it as sham and camouflaged without there being pleadings and without holding enquiry – Respondents not placed evidence to show that they were working under Appellant – Trite law that court shall not subscribe its view which is alien to facts pleaded and proof submitted by parties – Impugned orders, set-aside – Appeal allowed. [*Management of M/S Leotech v. Vijaya Kumar B*]

(T.M. NADAF, J.)
2025-III-LLJ-216 (Kant)

MISCONDUCT

Proof of Charge – Petitioner was held guilty for misconduct and punished with compulsory retirement – Petitioner's appeal against order of Disciplinary Authority and Petitioner's review were rejected, hence this petition – Whether, Petitioner entitled to be reinstated – *Held*, withholding witnesses and not producing any eye-witness makes inquiry against Petitioner unfair and suspect to its face – Dead eye of camera often reveals important things but not tell whole story – If a solitary witness, who had seen the incident, as already said, were produced, duly cross-examined, and then the CCTV footage analysed to understand the truth of otherwise of the testimony, the burden on the Establishment could well be discharged -Evidence not relevant to prove charge against Petitioner – In order to find him guilty there had to be some relevant evidence – The Petitioner's wife was already sanctioned a dairy loan earlier in the day, and there was no reason for her or the Petitioner to harbour a grouse against the Branch Manager or the Bank – Impugned order, quashed – Petitioner directed to be reinstated – Petition allowed. [*Prithvi Raj Singh v. Chief General Manager*]

(J.J. MUNIR, J.)
2025-III-LLJ-143 (All)

PERMANENT STATUS

Validity of Settlement – Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981, Section 3 – Respondent no. 2-employee appointed on temporary basis sought conferment of permanent status with effect from date when they completed 480 days continuous service from date of their original appointment on temporary basis – Respondent no.2-authority without considering 12(3)settlement reached between employees and Petitioner/management, granted permanent status, hence this petition – Whether, Settlement between employees and management would prevail over Section 3 of Act 1981 –

Held, any award, agreement, settlement, instrument or contract of service which may run contra to the benefit provided under Section 3 of the said Act, shall not stand against the workman in getting the permanent status, if he satisfies the requirement under Sub-Section 1 of Section 3 of the Act Thus, irrespective of 12(3) Settlement, if a temporary workman completes continuous service for a period of 480 days in a period of 24 calendar months in the Petitioner Management, he is entitled for permanent status from the date on which, he completed 480 days of continuous service – On the basis of the said aspect only, the first respondent authority has rightly passed order conferring permanent status on Respondent no. 2 with effect from 08.10.2002 the date on which, he completed 480 days of continuous service – Therefore, the provisions of the Act will prevail over 12(3) Settlement – No scope to interfere with impugned order – Petition dismissed. [*Management, TNSTCL v. Assistant Commissioner of Labour*]

(KRISHNAN RAMASAMY, J.)
2025-III-LLJ-89 (Mad)

REGULARIZAN

Award – Constitution of India, 1950, Article 226 – Dock Workers (Regulation of Employment) Act, 1948, Section 2(b) – Tribunal held that the Boat Workers were also entitled to be treated on *par* with the cargo handling workers as they come within the definition of dock workers as defined under Section 2(b) of Act – Tribunal directed regularization of services of Boat Workers in phased manner on *par* with Cargo Handling Workers and same affirmed by Writ Court, hence this appeal – Whether regularization of services of Boat Workers, sustainable – *Held*, Boat Workers played crucial role in functioning of Port before its deepening – To treat Boat Workers and Cargo Handling Workers separately or differently would only lead to similarly placed persons being treated differently – Once it was admitted that both sets of workers namely, Cargo Handling Workers on one side and Boat Workers on other side were employed through different contractors, regularization on one side and denying benefit of regularization to others was only artificial differentiation made by Port – Port demanded list of Boat Workers from Boat Workers Union and same had been placed before it, therefore, to treat them differently on ground of non-availability of list would be unreasonable – Award was well reasoned one and it could not be termed as *perverse* – Appeal dismissed. [*Chairman v. Boat Workers Union*]

(R. SUBRAMANIAN, J.)
2025-III-LLJ-40 (Mad)
LNIND 2025 MAD 1637

Casual Labourer – Trade union sought regularization of service of workmen treating them as casual workers – Recalling on order of closure of evidence and application for additional evidence filed by company, dismissed by Tribunal – Whether, workmen had ever been engaged by company as casual labourers – *Held,* to consider prayer for regularization of casual worker, length of service and working in vacancy of permanent post ought to be considered – Reduction of work load while still on job on regular basis as casual worker for considerable period not consideration while deciding right of casual worker claiming regularization –

Impugned order requires no interference – Application dismissed. [*Indian Oil Corp. Ltd v. Union of India*]

(SHAMPA DUTT (PAUL), J.)
2025-III-LLJ-34 (Cal)

REINSTATEMENT

Backwages – Industrial disputes raised by workmen against their removal from service without prior notice from Petitioner-establishment – Labour Court directed reinstatement to their original post with backwages – Whether, Labour Court rightly directed reinstatement of workman with backwages – *Held*, merely because Government invested its capital in company, the status of Petitioner as *juristic* person not changed – No document produced to show Respondents-workmen engaged by forest officer – All expenses relating to raising plantation funded by Company from loan advanced by corporations – Government assigned its officers to Petitioner only to supervise – Merely because the designated forest officer has signed the attendance register and the payment register, one cannot conclude that the payment is made by the forest department from the State fund – Documents maintained in name of Petitioner – Impugned awards modified in view of closure of Petitioner as reinstatement not possible but award in respect of backwages to be satisfied – Petitions disposed of. [*Chairman & Managing Director v. T.G. Rameshachari*]

(ANANT RAMANATH HEGDE, J.)
2025-III-LLJ-25 (Kant)

TERMINATION

Judicial Review – Dispute raised by Respondents 1 and 2 challenging justifiability of closure of factory of Respondent-company and termination of some employees – Tribunal concluded that closure of factory was illegal and consequently retrenchment of workmen was also illegal and therefore directed reinstatement in service – Whether impugned order passed by Tribunal, sustainable – *Held*, scope of judicial review limited – Re-appreciation of evidence and substituting factual findings with different conclusions not within scope of judicial review – Court could interfere if Tribunal or Labour Court proceeded on an *erroneous* understanding of law and thus arrived at patently *perverse* conclusions both on law and facts – Conclusion of Tribunal *erroneous* as same arrived without proper analysis of question regarding functional integrity – As finding regarding functional integrity found improper, finding of Tribunal incorrect – Impugned award not legally sustainable – Petition allowed. [*Heal Ayurveda Pharmacy v. Joint Secy, Aryavaidya Pharmacy*]

(S. MANU, J.)
2025-III-LLJ-206 (Ker)
LNIND 2025 KER 4

Unfair Labour Practices – Service of Respondent no. 2 terminated – Labour Court found that actions of Management amounted to unfair labour practice therefore workman entitled to be reinstated – Whether, denial of employment to Respondent no.2 by management amounted to unfair labour practice – *Held*, school obtained sanction for Fresh Composite

Provisional Affiliation for Secondary School Examination from CBSC – Service rules did not indicate prior affiliation – Respondent no.2 – Denial of employment without assigning reason amounted to unfair labour practice – Labour Courts and Industrial Tribunals could decide incidental and ancillary matters related to main issue to ensure fair adjudication – Considering age of Respondent no.2 he could not be ordered to be reinstated but would be entitled to back wages – Petition disposed of. [*Principal, Bharathiya Vidyabhavan School v. Labour Court*

(MURALI PURUSHOTHAMAN, J.)
2025-III-LLJ-82 (Ker)

Workman – Industrial Disputes Act, 1947, Section 2(s) – Petitioner engaged as labour in Respondent-Corporation terminated from service – Labour Court held Petitioner could not establish relationship of workman and employer between Petitioner and Respondent and hence, non-suited – Whether, Petitioner was workman under Respondent – *Held*, Respondent hired Petitioner for work of manual and technical nature – Merely on account of fact that reward for such work given on Piece Rate Basis in itself would not oust him from definition of workman – Petitioner required to work under instructions and control of Respondent – Petitioner fulfilled requirements of Section 2(s) of Act therefore he was workman – State amendment by Government in Section 2(s) of Act provides that even person employed through contractor shall also be considered as workman of principal employer for purposes of Act – Petitioner comes within purview of workman of Respondent – Impugned award, quashed – Petition allowed. [*Devendra Kumar Arvind v. Chief Manager, RSRTC*]

(ANAND SHARMA, J.)
2025-III-LLJ-182 (Raj)

WITHHOLDING SERVICE BENEFIT

Revocation of Suspension – Industrial Disputes Act, 1947, Section 33C(2) – Petitioner whose service benefits withheld sought for grant of full benefits – Respondent-management issued endorsement denying benefits – Labour Court rejected application filed by Petitioner challenging such endorsement on ground that no adjudication conferring right in favour of Petitioner – Whether, impugned order sustainable – *Held*, Petitioner placed under suspension pursuant to criminal case filed by family members – Clause 37(8) of Certified Standing Orders which disentitled wages and suspension allowance deleted – Clause 37(9) could not be invoked as when Petitioner was under suspension Certified Standing Orders did not contain any provision to withhold wages in situation where suspension under Clause 34(c) - Under Model Standing Orders no provision for payment of full wages after revocation of suspension allowance or after workmen acquitted in criminal proceedings - Employer thought fit to bring Certified Standing Orders in conformity with Model Standing Orders – Petitioner entitled to full backwages during period of suspension – Labour Court ought to have quantified he amount payable by considering undisputed facts relating to wages payable to Petitioner – Said exercise is permissible under Section 33C(2) of the Act of 1947 as said amount payable to the petitioner is capable of being computed – Impugned order, set-aside – Matter remitted to Labour Court for adjudication – Petition partly allowed. [*G. Prabhudev v. Bharat Heavy Electricals Limited*]

(ANANT RAMANATH HEGDE, J.)
2025-III-LLJ-74 (Kant)

WORKMAN

Maintainability of Dispute – Industrial Disputes Act, 1947, Section 2(s) – Industrial disputes raised by Petitioner's on termination of their services by management – Impugned Award passed by Labour Court holding that Petitioners were not workmen as defined under section 2(s) of Act hence, not entitled to benefits of Act – Whether, Petitioners were entitled to sustain their claim under Act – *Held*, reference never challenged by Petitioners – Witnesses for both management and workmen examined before Labour Court therefore could not be said that Labour Court arrived at finding of non-maintainability in summary manner – Petitioners engaged for project which extended from time to time – Standing Committee of Corporation permitted such extension stating it became committed liability – Committed liability merely phrase adverting to resource planning but not creating cadre of Basti Sevikas or regularizing appointments or creating policy – Finding of Labour Court, affirmed – Matter enlisted. [*Zubeda v. Commissioner of MCD*]

(ANISH DAYAL, J.)
2025-III-LLJ-127 (Del)

AUGUST, 2025

ACCIDENT IN COURSE OF EMPLOYMENT

Claim Application – Employee State Insurance Act, 1948, Sections 46(d), 46(f), 51A and 52 – Employees' State Insurance (Central) Rules, 1950, Rules 58 and 59 – Employee of Respondent No.2 was brutally murdered by accused while on duty – Court below dismissed claim of Appellants holding that death of deceased was for reasons not connected with employment – Whether, Appellant entitled to relief as accident arising out of and in course of employment – *Held*, no evidence on record to show that murder was not connection with course of employment – Section 51A of Act applicable – Accidental murder occurred during course of his employment with Respondent No 2, established – Respondents failed to prove that murder was outside employment of Respondent No. 2 – Casual connection between accident and employment established – No evidence to show that deceased and accused had previous animosity extraneous to their employment – Section 46(d) read with Section 52 of Act read with Rule 58 of Rules 1950 entitles dependents of deceased insured employee for periodical payments along with funeral expenses as envisaged under Section 46(f) of Act read with Rule 59 of Rules – Impugned order, set aside – Appellants entitled to compensation under Act – Appeal allowed. [*Vijay Bahadur Singh v. Employees State Insurance Corp.*]

(TEJAS KARIA, J.)
2025-III-LLJ-386 (Del)
LNIND 2025 DEL 3792

COMPASSIONATE APPOINTMENT

Monetary compensation – Single Judge allowed prayer of Respondent/Claimant for her claim of Monthly Monetary Cash Compensation (MMCC) and directed Appellant Authority to pay same from date of death of her mother with interest, hence these appeals – Whether order to provide MMCC to Petitioner requires interference – *Held*, Appellant authority under grab of processing of application and taking advantage of silence on part of Respondent for long 10 years showed ample apathy over issue of giving employment or monetary compensation to Claimant and thereby failed to implement Scheme and only after writ petition was filed, Authority became active to contest same – Stand taken by Appellant that on account of negligence on part of Claimant in satisfying authority, such huge unexplained delay about 10 years occurred and claim of monetary benefits to be limited to 3 years preceding date of petition filed before High Court did not merit acceptance and thus rejected – Monetary compensation or compassionate appointment in terms of Wage Agreement was not matter of any bounty to be distributed by authorities, but valuable rights of workmen attached to company and any delay in settlement and disbursement should be viewed seriously, and dealt with severely by imposing penalty in form of payment of interest – No ground made out to discard views expressed by Single Bench regarding payment of interest – Considering long silence on part of Authority and in order to render complete justice, rate of interest enhanced and entitlement reckoned from date when committee took positive view about claim – Appeal filed by Authority, dismissed – Appeal filed by Claimant, partly allowed. [*Eastern Coalfields Limited v. Mangali*]

(CHAITALI CHATTERJEE DAS, J.)
2025-III-LLJ-321 (Cal)

DENIAL OF GRATUITY

Entitlement – Payment of Gratuity Act, 1972 – Contract Labour (Regulation and Abolition) Act, 1970, Section 21(4) – Petitioner was denied gratuity from his employer – Respondent no. 2 held that Petitioner was not entitled to gratuity because he failed to complete 5 years of continuous service – Appeal preferred by Petitioner, dismissed – Whether, Petitioner entitled to gratuity from his employer – *Held*, worker though working under one contractor after another worked with same principal employer-Respondent no. 4 – Gratuity payable under Act, 1972 is gratuitous payment required to be made by employer at time of termination of services – Section 21 (4) of Act 1970 (CLRA) mandate principal employer responsible for payment of wages to contract employee in event of contractor's failure – Principal employer or contractor liable to pay gratuity to contract employees depending on circumstances – Order of Appellate Authority, set aside – Respondent no. 4 directed to make payment of gratuity to Petitioner – Petition allowed. [*Shibaprasad Sutradhar v. State of West Bengal*]

(SHAMPA DUTT (PAUL), J.)
2025-III-LLJ-372 (Cal)
LNIND 2025 CAL 1813

DENIAL OF PENSION

Enforceable Right to Pension – Petitioner having rendered over 35 years of unblemished service, sought for pensionary benefits from Respondent-Municipality – Whether, Petitioner entitled to pension – *Held*, pension not act of charity but legally enforceable right accrued by employees as result of their service – All employees continuously working with Respondent-Municipality treated as permanent employees for all purposes – Petitioners entitled to receive pension and other retiral benefits – Pension once earned by employee after rendering continuous service ought not to be delayed – Administrative inefficiencies or inter-departmental communications cannot be permitted to prejudice the rights of employees who have served Respondent Municipality for decades – Right to pension is not a bounty but a vested right earned through years of dedicated service – Any further delay in granting the legitimate retiral dues to the Petitioners would be wholly unjustified and contrary to the principles of fairness and equity – Petition disposed of. [*Dilip Hari v. The State of West Bengal*]

(GAURANG KANTH, J.)
2025-III-LLJ-449 (Cal)
LNIND 2025 CAL 1930

DISMISSAL

Jurisdiction of Tribunal – Industrial Disputes Act, 1947, Section 11A – Respondent-workman dismissed from service by management for misconduct – Tribunal held workman entitled for reinstatement – Whether, dismissal of Respondent justifiable – *Held*, Tribunal discarded every conclusions of inquiry officer against Respondent and substituted them with fresh findings – Parameters adopted by Tribunal for analyzing evidence not of preponderance of probability but much higher – Considering scope of jurisdiction of Industrial Tribunal under Section 11A of Act, Tribunal has seriously erred in rejecting every conclusion of inquiry authority – Tribunal acted as appellate authority and arrived at contrary conclusions – Matter remitted to Tribunal for fresh consideration – Petitions disposed of. [*KDHP Company Private Limited v. P. Vinoth*]

(S. MANU, J.)
2025-III-LLJ-351 (Ker)

Limitation – Industrial Disputes Act, 1947, Section 2(a)(3) – Management issued dismissal order against Petitioner / bus driver for causing accident – Approval Application filed by Management for dismissal was granted – Labour Court held that charges levelled against Petitioner were not proved but dismissed industrial dispute on limitation point, hence this petition – Whether, Labour Court erred in dismissing industrial dispute on limitation point – *Held*, no dispute in respect of relationship between parties as employee and employer – Order of dismissal becomes final only on date when Authority grants approval and dismissal order would come into effect only from date of approval – Limitation accrues from date of approval – As per Section 2(a)(3) of Act, limitation period was 3 years – Industrial dispute raised by Petitioner within limitation period – Impugned findings of Labour Court in respect of limitation not sustainable – Respondent not challenged findings rendered by Labour Court as dismissal order not valid – Petitioner entitled for reinstatement with backwages – Petition allowed. [*K. Palanisamy v. Management of TNSTCL (CBE)*]

(P. DHANABAL, J.) 2025-III-LLJ-293 (Mad)
LNINDORD 2025 MAD 1892

GRATUITY

Affordability Clause – Payment of Gratuity Act, 1972, Section 4 – Constitution of India, 1950, Article 14 – Petitioners, erstwhile employees of 2nd Respondent filed present petitions challenging orders passed by 3rd Respondent in appeals and to quash later Official Memorandum issued by 1st Respondent to extent it makes payment of enhanced gratuity under earlier Office Memorandum subject to affordability of Public Sector Enterprise concerned – Whether Petitioners entitled to enhanced gratuity amount – *Held*, without any condition, earlier order Official Memorandum was issued – Clarification order modified entire scheme and word "subject to affordability" was introduced and same would amount to modification and could not be permitted – When applications were presented before amendment of Act, Authority failed to consider that clarification was issued after amendment of Act, that too, by time earlier Office Memorandum had created vested right and substantial right to Petitioners to receive enhanced gratuity – Right to legitimate expectation of Petitioners accrues from date of earlier Official Memorandum and it could not be clarified by way of imposing conditions – Even as per amended Section 4(5) of Act, Petitioners were entitled to get higher gratuity than prescribed limit – Gratuity was sort of financial assistance to tide over post-retiral hardships and inconveniences and could never be linked to profitability or financial performance of 2nd Respondent – Petitioners could not alter their legitimate expectation based on subsequent Official Memorandum and affordability criteria was violative of Article 14 of Constitution – Order passed by Authorities declining to enhance Gratuity amount was against law and quashed – Clause 2(a) in clarification Official Memorandum was against law and quashed – Petitioners entitled to enhanced gratuity amount – Petitions allowed. [*p. Manivannan v. Ministry of Finance*]

(P. DHANABAL, J.)
2025-III-LLJ-394 (Mad)
LNINDORD 2025 MAD 1993

INTEREST ON GRATUITY

Appeal against refusal – Payment of Gratuity Act, 1972, Sections 4, 7(2) and 7(3A) – Petitioner sough to Respondents to release interest for delayed payment of gratuity – Controlling authority though directed payment of gratuity in favour of Petitioner but refused to pay interest – Whether, Petitioner entitled to interest as sought for – *Held*, Controlling Authority was wrong in not granting interest – Gratuity payable to employee was the duty of employer under Section 4 and Section 7(2) of Act – In view of Section 7(3A) of act, decision of controlling authority regarding interest on gratuity being not in accordance with law liable to be set aside – Petition allowed. [*Himangshu Karmakar v. Food Corporation of India*]

(SHAMPA DUTT (PAUL), J.)
2025-III-LLJ-465 (Cal)
LNIND 2025 CAL 1692

PENSION

Intellectually Disabled child – Tamil Nadu Pension Rules, 1978, Rule 49(6) – CCS (Pension) Rules, 1972 – Son of deceased employee sought for family pension on ground of suffering from intellectual disability – Petition filed by his elder brother allowed by Single Judge – Whether, mentally retarded son of deceased employee entitled to family pension – *Held*, Rules 1972 and Rule 49(6) of Rules 1978 stated that son or daughter suffering from disability of mind which prevents him or her from earning livelihood entitled to family pension – When statutory rule itself contemplates certificate only from Doctor or Medical Board, the authority could not ask for anything more – Pension characterized as matter of right and not charity – Son of pensioner who was mentally disabled falls within scope of pension rules and he should be disbursed with family pension on submission of medical certificate – Appeal disposed of. [*Principal Accountant General v. A.V. Jerald*]

(G.R. SWAMINATHAN, J.)
2025-III-LLJ-273 (Mad)

PENSIONARY BENEFITS

Counting of Service Period – Orissa Pension Rules, 1992, Rule, Rule 18(6) – Single Judge Benches directed State Government to count entire service rendered by job contract employees for purpose of pension – State's intra-court appeals against same negatived by Coordinate Benches – Whether, Single righty directed to count entire pre-regularization service for purpose of pension – *Held*, pension not bounty – It is consideration for past service and becomes payable after employee demits office on attaining age of superannuation – Courts must scrupulously follow Rules 1992 while adjudging *inter alia* rights of pensioners, its jural corelative resting on shoulders of State – When no challenge laid to vires of instruments of law Courts could not ignore them – Rule 18(6) of Rules provides for grant of pension even to persons employed by job contract – Rule 18(6) of Rules shows clear intent of provision that shortfall of qualifying service to be counted and not entire service *i.e.* pre-regularization service plus regular service – Work-charged establishment and job contract are poles asunder – No *plea* taken by employees warranting invocation of doctrine of reading down – Impugned orders of Single Judges set at naught – Appeals allowed. [*State of Odisha v. Krushna Chandra Mallick*]

(DIXIT KRISHNA SHRIPAD, J.)
2025-III-LLJ-364 (Ori)

RECTIFICATION OF DATE OF BIRTH

Opinion of Expert – Application for rectification of date of birth submitted by Petitioner rejected by Respondent no. 2 – Whether, impugned order passed by Respondent no. 2, sustainable – *Held*, Respondent no. 2 governed by its own stature – No conflict between circular and interview letter – When transfer application was submitted at the time of appointment, the same was not attested/counter-signed by the District Education Officer in compliance of Clause-2 of the said Interview Letter – No conclusive evidence before Respondent no. 2 with regard to age proof of Petitioner as required under Interview Letter – No mistake in recording date of birth in Service Book of Petitioner as age assessed by medical board by virtue of independent assessment method recognized in regulation – Finding of medical board attained finality upon

not challenging – Court could not sit in appeal on opinion of experts – Procedure of law, followed – Petition dismissed. [*Gangadhar Mondal v. Union of India*]

(ANIRUDDHA ROY, J.)
2025-III-LLJ-470 (Cal)
LNIND 2025 CAL 1636

REINSTATEMENT

Back wages – Writ Court confirmed award of labour court in respect of reinstatement of workman with continuity of service and back wages, hence this appeal – Whether payment of full back wages to workmen, justified – *Held*, only one workmen who had examined himself as WW1 filed proof affidavit, which contained one line that since date of his termination they were without any employment and they had got family to support – Except this, no other workmen came forward or chosen to file statement that they were not in gainful employment, pursuant to termination – Workmen had not come forward with pleadings or proof to establish that they had not been in gainful employment – Management not taken any efforts to prove it otherwise against employee to show that they had been gainfully employed during relevant period – Management had not raised suggestion with witness in respect of gainful employment – When no pleadings were available and no materials placed on either side, Labour Court went ahead and granted full back wages – Labour Court had not recorded any findings as to whether it was fit case or on what basis full back wages were awarded – Writ Court, while confirming award, did not render any findings regarding eligibility or whether it was fit to award full back wages – Award and order of writ court modified in so far as awarding full back wages, instead by awarding 50% of back wages – In all other aspects, award confirmed – Appeal partly allowed. [*Chennai Container Terminal v. Presiding Officer*]

(G. ARUL MURUGAN, J.)
2025-III-LLJ-255 (Mad)
LNIND 2025 MAD 1438

Denial of back wages – Labour Court passed award by which services of Petitioner/employee had been reinstated without back-wages, hence this petition – Whether denial of back wages, justified – *Hele*, Trial Court committed illegality with regard to denial of back wages of Petitioner, as if the employer wants to avoid payment of full back wages, then it had to plead and also lead cogent evidence to prove that workman was gainfully employed and was getting wages equal to wages he was drawing prior to termination of service – Burden of proof of existence of particular fact lies on person who makes positive averment about its existence – Once employee shows that he was not employed, *onus* lies on employer to specifically plead and prove that employee was gainfully employed and was getting same or substantially similar emoluments – Respondent/employer could not prove that Petitioner was gainfully employed during relevant period – Petitioner entitled for full back wages with 6% interest from date of removal till his reinstatement as in absence thereof, he had distressed and had suffered punishment for no fault of his own. [*Ramesh Chandra Kshwah v. State of M.P*]

(MILIND RAMESH PHADKE, J.)
2025-III-LLJ-336 (MP)

RETRENCHMENT

Jurisdiction of Labour Court – Industrial Disputes Act, 1947, Section 25B – Labour court held retrenchment of workman as illegal and directed for reinstatement – Whether, Labour court competent to decide on legality of termination letter issued by employer to workman – *Held*, no independent enquiry conducted against workman – Once workman acquitted from criminal charges, the workman ought to be reinstated – Although on acquittal of workman right accrues upon him to be reinstated such right may not be absolute as subject to domestic enquiry – Well settled that when no enquiry held both employer and workman entitled to get second chance – Labour court in order to test out validity of letter of disengagement obliged to conduct independent enquiry – Labour court acted within jurisdiction – No dispute that workman was in continuous service under Section 25B of Act – No order for back wages could be passed – Workman directed to be reinstated – Petitions disposed of. [*Chitambaram v. Director of Transport*]

(RAJA BASU CHOWDHURY, J.)
2025-III-LLJ-455 (Cal)
LNIND 2025 CAL 1489

SELECTION PROCESS

Eligibility Criteria – Appellant than, though his name was notified for the purpose of appearing in the examination, his name did not find place in the provisional selection list – Appellant asserts that he suffers from a disability exceeding 75% and therefore eligible for appointment to said post, however, Respondents issued a provisional selection list indicating that no eligible candidate was available for the post reserved for PwD category – Whether eligibility criteria regarding the types of disabilities for candidates under the PwD category can be relaxed when there is no other eligible candidate in the category for the post, and Appellant is functionally suitable to perform the duties of the notified post – *Held*, as suggested by Hon'ble Supreme Court, while assessing the capacity and capability of a candidate, undue emphasis cannot be placed on medical or clinical issues alone – When there are insufficient PwD candidates available for selection in their respective category, relaxation of the eligibility criteria may be considered in assessing suitability of a candidate – Appellant is already appointed as an Assistant, and he would be eligible for promotion to the post of Assistant Accounts Officer – If he can be deemed fit for promotion to the post of Assistant Accounts Officer, it would be unreasonable to declare him ineligible for the same post through direct recruitment – According to disability certificate, Appellant is eligible to perform light duties, which include sitting, writing with his hands, and performing normal work with both hands – This functional assessment qualifies Appellant to be appointed as Assistant Accounts Officer – As suggested by Hon'ble Supreme Court, the eligibility criteria may be relaxed and upon such relaxation, Appellant would be eligible for the post of Assistant Accounts Officer – Appeal allowed. [*Anil Kumar S.B. v. Karnataka PTCL*]

(K.V. ARAVIND, J.)
2025-III-LLJ-265 (Kant)
LNIND 2025 KANT 33

TERMINATION OF SERVICE

Guest Faculty – Industrial Disputes Act, 1947, Section 2(s) and 2(rr) – Industrial dispute raised by Petitioner in connection with his termination of service, dismissed by Tribunal – Whether, Tribunal erred in dismissing application filed by Petitioner against his termination of service – *Held*, appears from letter of appointment that Petitioner was guest faculty and was paid honorarium based on number of session covered and money receipt given towards such payment – Parties also entered into settlement – Petitioner paid Honorarium and not wages – As per Section 2(rr) of Act, wages is fixed and regular payment earned for work or services – As per Section 2(s) of Act, employment is continuous process having work on regular basis and being paid for it – Petitioner neither workman nor received wages as not employed with Respondent – No irregularity in findings of Tribunal – Application dismissed. [*Sri Hansraj Koley v. Secretary, Labour Department*]

(SHAMPA DUTT (PAUL), J.)
2025-III-LLJ-431 (Cal)
LNIND 2025 CAL 1603

TERMINATION

Oral order – Constitution of India, 1950, Articles 14, 16 and 21 – Petition filed by Petitioner challenging his oral termination by Respondents – Whether action of Respondents in orally terminating services of Petitioners, legal – *Held*, in case authorities passes order affecting person's civil right to livelihood, they have to act clearly and in reasonable manner – Termination of services of employee by oral order was high handed approach – There was evidence on record to indicate that Petitioners were working past more than ten years with Respondents and oral order or instructions passed by Respondents terminating services of Petitioners was arbitrary, unjust and improper – Authorities were expected to take decision in accordance with law – Even if there was statutory provision, it shall always be necessary for authority to pass written order instead of acting in such way – While calculating 240 days in year, Sundays and Public Holidays were to be counted and accordingly services of Petitioners was required to be recalculated to extend them benefits of Government Resolutions – Letters issued by 4th Respondent addressed to Petitioners individually rejecting their claim for benefits under Government Resolutions suffers from non-application of mind and was arbitrary, unreasonable, bad in law, against settled principles of law and against judgments passed by Supreme Court and this Hon'ble Court and violative of Articles 14, 16 and 21 of Constitution of India and this deserve to be quashed and set aside – Oral termination of Petitioners declared to be *null and void* – Benefits as per Government Resolution were to be worked out and granted to Petitioners – Petition allowed. [*Savitaben Dhayabhai Macchi v. State of Gujarat*]

(SANDEEP N. BHATT, J.)
2025-III-LLJ-403 (Guj)

Reinstatement – Petitioner terminated from service for committing irregularity while employment in Public Distribution System – Labour Court though awarded full back wages but refused to reinstate him in service – Whether, Petitioner entitled to be reinstated in service –

Held, allegation of Petitioner being in intoxicated state not proved either by medical examination or examination of witness – When there was stock deficiency at time of inspection, Deputy Registrar would have first taken note of this deficiency and memo would not be issued only on ground of intoxication – Petitioner had not been given documents based upon which stock deficiency could be proved – As charges not proved by Respondent, Petitioner entitled to reinstatement – Impugned order could not be sustained – Respondent directed to reinstate Petitioner with full back wages – Petition allowed. [*S. Poovendhi v. Joint Registrar*]

(P.T. ASHA, J.)
2025-III-LLJ-286 (Mad)
LNINDORD 2025 MAD 1662

Unauthorized Absence – Petitioner terminated from service on ground of unauthorized absence – Whether, termination of Petitioner from service, justified – *Held*, neither registered document was sent to the answering opposite party nor any application was served through proper mode in the office of the answering opposite party – Proof of receipt of Under Postal Certificate could not be relied upon as it had no evidentiary value – Postal certificate was not a reliable means of dispatching medical certificate particularly when none of them received by department – No explanation given by Petitioner for such long and inordinate delay in filing petition – No ground for interfering with impugned order as same passed following due procedure – Petition dismissed. [*Rajendra Prasad Tripathi v. Hindustan Aeronautics Ltd*]

(BRIJ RAJ SINGH, J.)
2025-III-LLJ-436 (All)
LNINDORD 2025 LUCK 109

WORKMAN DUES AFTER CLOSURE

Liability of Management – In connection with reference of industrial dispute made by Government, Tribunal held that Management would be liable for consequences of closure – Writ court confirmed such awards passed by Labour Court – Whether, writ court justified in concluding that Management would be liable to pay dues to workman – *Held*, lease deed implied that it was responsibility of person who had engaged services of workmen to pay them – Question of fact ought to be decided by Labour Court – Though lease deed provided for arbitration clause neither lessee nor lessor challenged termination and moved the Arbitrator – While lessor liable to pay the employee who were admitted by it subsequently – Identification of such employees need to be carried out by Labour court – Impugned order, modified – Closure is illegal but, the liability to settle the employees would be governed by the contract of employment and the person who appointed the employee would be liable to compensate the employee on the closure - Question as to whether a particular employee was engaged by the Management or by lessee will be decided by the Labour Court – Appeal allowed. [*Management of Kandasamy Spinning Mills v. Presiding Officer*]

(R. SUBRAMANIAN, J.)
2025-III-LLJ-248 (Mad)
LNIND 2025 MAD 1566

WORKMEN

Permanent status – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, Section 3 – 1st Respondent/Labour Inspector passed award holding that Petitioner/TWAD Board fell within purview of Act 1981 and workers were entitled to claim permanency under said Act, hence these petitions – Whether workers were entitled for conferment of permanent status under Section 3 of Act 1981 – *Held*, workers were workmen of TWAD Board and TWAD Board was industrial establishment as defined in Act 1981 – In absence of maintenance of register by TWAD Board in Form I in terms of Rule 6 and failure of provision of other information as directed by Labour Inspector, based on log book maintained by workers, which was counter-signed by Authorities from time to time, Labour Inspector arrived at conclusion that workers had worked for 480 days in two years – No fault or defect in decision making process by Labour Inspector while taking decision that workers are entitled for conferment of permanent status upon continuous working of 480 days out of 24 months – Workers were certainly entitled for conferment of permanent status in terms of Section 3 of Act 1981 – Petitions dismissed. [*Executive Engineer v. Inspector of Labours*]

(KRISHNAN RAMASAMY, J.)
2025-III-LLJ-300 (Mad)
LNINDORD 2025 BMM 815

SEPTEMBER, 2025

AWARD

Revised wages – Award passed by Central Government Industrial Tribunal allowing claim of Respondent Union that employees be paid revised consolidated wages from their respective dates of joining, hence this petition – Whether Tribunal justified in attempting to modify the benefits established under the binding settlement – *Held*, when Respondent Union's counterpart trade union had raised identical claims and suffered adverse award, Respondent union not only professed ignorance of said award but also sought to disassociate themselves from counterpart Union – It was further admitted that another unit had participated in Join Committee Meeting during which minutes of agreement, were recorded – It was also acknowledged that benefits under said agreement had been extended to employees covered therein – Not only did Tribunal failed to discuss binding effect of agreement as final and conclusive upon all parties concerned, but also glossed over earlier award passed by same Tribunal in respect of counterpart unit on identical issues – Although Respondent union was not direct signatory to settlement, it was admitted that its representatives participated in Joint Committee Meeting – Union's witness also acknowledged that workers had received benefits flowing from agreement – Union neither challenged validity of settlement not demonstrated infirmity in its execution – They were estopped from asserting contrary position, in view of earlier award passed by same Tribunal in dispute raised by their counterpart unit – Award passed by Tribunal, quashed – Petition allowed. [*Bharat Heavy Electricals Ltd v. General Secretary, BMS*]

(DR. A.D. MARIA CLETE, J.)
2025-III-LLJ-552 (Mad) LNIND 2025 MAD 1951

CONCELLATION OF APPOINTMENT

Conviction – Appellant cancelled Respondent's appointment as Peon on account of conviction for offence, which concerned gaming in public streets – Petition filed by Respondent challenging his cancellation of appointment was allowed by Single Judge, hence this appeal – Whether Respondent's cancellation of appointment was justified – *Held*, Respondent was convicted of offence on certain date, which was after he had made application for appointment pursuant to notification – Last date for receiving applications was before date of conviction and Respondent had made his application within stipulated period – No material on record to support contention that Respondent's appointment was cancelled on account of non-disclosure of his conviction – This Court not persuaded inaccurate particulars – This Court concur with view of Single Judge that conviction for petty offence would not be ground for cancelling offer of appointment – Non-disclosure of conviction for petty offence, did not necessarily provide sufficient ground for cancellation of appointment – No ground to fault impugned order – Appeal dismissed. [*Chief Administrative Office v. Sri. Mallappa Basappa Sajjan*]

(VIBHU BAKHRU, CJ.)
2025-III-LLJ-546 (Kant)

DENIAL OF PENSION

Work Charge Status – Petitioner was engaged as daily wager in 1990 and after completion of 10 years of service, he became entitled for work charge status on1.1.2000 and later his services were regularized as Peon with respondent No. 4 with effect from 24.8.2006 – Petitioner after retirement sought for grant of pensionary benefits – Whether, prayer made on behalf of Petitioner for counting of service rendered in work charge capacity for the purpose of qualifying service deserves to be allowed – *Held,* prayer for counting of service rendered in work charge capacity for purpose of qualifying service, allowed – Petitioner's services regularized before issuance of Notification thus therein prescribing that Old Pension Scheme rules not be applicable to employees appointed on specified date might not have much relevance in case of Petitioner – Prior to filing of petition, Petitioner had approached High court for grant of work charge status – *plea* of delay and laches sought to be raised by the respondents in the instant petition may not be available to them, for the reason that on account of non-counting of work charge period, petitioner is suffering continuously and had respondents taken into consideration aforesaid period for qualifying service, petitioner would have received pension immediately after retirement in the year 2017 – Respondents directed to take into consideration period of work charge status while calculating qualifying service for purpose of pension – Petition allowed. [*Narender Kumar v. State of Himachal Pradesh*]

(SANDEEP SHARMA, J.)
2025-III-LLJ-671 (HP)

DISCIPLINARY PROCEEDINGS

Proof of charges – Petitioner-Society terminated Respondent/workman from service of ground that he had misappropriated funds and sold rice meant for Fair Price Shop to third parties thereby causing shortage of stocks – On appeal, Appellate authority set aside order of termination, hence this petition – Whether finding of Appellate authority that enquiry had not been conducted in fair manner and Petitioner-Society had not proved charges against Respondent, justified – *Held*, appellate authority's finding that long delay in concluding disciplinary proceedings was ground to set aside disciplinary proceedings had to be upheld – Delay was nearly 7 years – Appellate authority's finding that disciplinary proceedings had not been conducted in fair manner in light of documents not being supplied to Respondent had to be upheld – Petitioner-Society had not examined those persons who had given statements against Respondent but had chosen to rely upon statement alone thereby depriving Respondent opportunity to cross examine them – Their testimony remained uncorroborated and unproved – Reliance that was placed on those statements to arrive at conclusion that Respondent was guilty of charges was misconceived – Appellate authority had rightly analysed evidence on record to arrive at conclusion that enquiry had not been conducted in fair manner and Petitioner-Society had not proved charges against Respondent – No reason to interfere with well-considered order of Appellate authority – Petition dismissed. [*Managing Director v. V. Sundaresan*]

(P.T. ASHA, J.)
2025-III-LLJ-561 (Mad)

DISMISSAL

Res-Judicata – Industrial Disputes Act, 1947, Sections 10 & 33(2)(b) – Petitioner-Union raised dispute challenging penalty of dismissal of member – Labour declined to reconsider issue holding that it operates as *res judicata* – Whether, impugned order of penalty operates as *res judicata* between parties in subsequent proceeding – *Held*, doctrine of *res judicata* applied to proceedings under Act, 1947 – While dealing with application under Section 33(2)(b) of Act when authority holding enquiry not fair permited parties to lead evidence afresh on charges levelled then defect gets cured – In subsequent proceeding under Section 10 of Act there could not be further enquiry relating to fairness of disciplinary enquiry – Scope of enquiry under Section 33(2)(b) limited to lifting ban on punishment – Finding on issue relating to fairness of domestic enquiry adjudicatory – Enquiry under Section 33(2)(b) of Act binding on parties as authority had jurisdiction to adjudicate on fairness of domestic enquiry and said finding could not be re-agitated in subsequent industrial dispute as it operated as *res judicata* – Matter remitted to Labour Court – Petition dismissed. [*Fouress Engg Karmika Sangha v. Mgmt. of Fouress Engg*]

(ANANT RAMANATH HEGDE, J.)
2025-III-LLJ-654 (Kant)
LNINDORD 2025 KANT 1731

Unauthorized Absence – Respondent No. 1-employee of Petitioner-company was dismissed from service for unauthorized absenteeism – Tribunal passed *ex-parte* award by holding punishment was disproportionate and directed Petitioner to reinstate employee with back wages – Whether, Respondent no. I was rightly dismissed from service for unauthorized absenteeism – *Held*, appears from award that no finding of Presiding Officer that management was duly served notice – Appears from enquiry report that workman was habitual unauthorized absentee and also the workman did not appear before the enquiry officer in spite of proper notice – Writ Court could not go into details of evidence recorded and as to discrepancies of finding conducted by disciplinary authority – Petitioner following due process dismissed him from the service – Findings of Presiding Officer not in accordance with law as there being no detailed reasons and no proper findings against the report of the enquiry officer – Action of management in dismissing employee from services, justified – Application allowed. [*Eastern Coalfields Ltd v. Sri Uttam Bouri*]

(SHAMPA DUTT (PAUL), J.)
2025-III-LLJ-645 (Cal)
LNIND 2025 CAL 2214

INDUSTRIAL DISPUTES

Individual worker – Industrial Disputes Act, Sections 2-A and 2(k) – 1st Respondent returned petition filed by Petitioner Trade Union under Section 2(k) of Act on ground that only application under Section 2-A of Act was maintainable, hence this petition – Whether order of 1st Respondent returning application under Section 2(k), instructing workman to approach Labour Court directly by invoking Section 2-A was legally sustainable – *Held*, by introduction of Section 2-A, even individual dispute would be deemed to be industrial disputes provided it was case of discharge, dismissal, retrenchment or termination – After introduction of Section 2-A, 2(k) was not amended, therefore, when individual dispute was espoused by trade union, even as on today, same could be industrial dispute – Individual workman could either treat case of dismissal, as his individual dispute and approach Labour Court directly or he could treat same as industrial dispute with assistance of his union or group of workmen and approach authority concerned – Out of three dismissed employees, one was State level office bearer and other two were frontline activists of Petitioner Union – Union had taken up cause of individual workmen, without leaving dispute to be defended by individual workmen – When it was alleged that individual workmen had been victimized for their involvement in their trade union activities, Union was expected to defend those individual employees treating their individual dispute as industrial dispute – Order of 1st Respondent not legally sustainable – Impugned orders, set aside – 1st Respondent directed to entertain application and proceed in accordance with law – Petition allowed. [*State General Secretary v. Deputy Commissioner of Labour*]

(R. VIJAYAKUMAR, J.)
2025-III-LLJ-496 (Mad)

PAYMENT OF WAGES

Casual Workers – Respondent No.1-union of casual workers sought for payment of wages on *par* with minimum pay scale of regular employees of Appellants – Single Judge directed Appellants to ensure that members of union be paid equal pay for equal work, hence this appeal – Whether the members of the union were rendering similar duties and responsibilities as are being discharged by regular employees – *Held*, no disclosure about total number of members of union and details of posts held by them – No material placed before Court to show total sanctioned strength of each of different posts held by members of union – In absence of details of requisite qualification for regular employees it could not be concluded that duties qualitatively similar and equal sensitivity – Terms in contract agreement binding upon contractual employees – No disclosure of responsibilities held by each of members of union and their reliability, experience, confidentiality and functional need – No material has been placed by union to establish wholesome/wholesale identity between the posts held by the members of the union and their counterparts in regular employment – Impugned judgment, quashed – Appeal allowed. [*MeECL v. MeECL Progressive Worker's union*]

(B. BHATTACHARJEE, J.) 2025-III-LLJ-596 (Megh)

REGULARIZATION

Continuous Service – Representation of Petitioner for regularization rejected by Management – Whether Petitioner entitled to regularization as he had 10 years of continuous services – *Held*, upon reinstatement workman entitled to count entire intervening period of service as continuous service and could not be put to disadvantage for contesting Court battle against retrenchment – Services of Petitioner to be counted as continuous from date initially engaged on daily wages therefore on specific date, he completed more than 10 years of service and thus, entitled to be considered for regularization – Regularization can only be done on post of direct recruitment – Impugned order, set aside – Respondents directed to consider case of Petitioner for regularization – Petition allowed. [*Akhilesh Upadhyay v. State of MP*]

(VIVEK JAIN, J.) 2025-III-LLJ-504 (MP)

RETRENCHMENT

Regularization of Service – Petitioner-daily wage employee retrenched without notice but Labour Court held termination as illegal and directed for reinstatement – Application filed by Petitioner for regularization, rejected by Respondent No-3 – Whether, Petitioner entitled for regularization of service – *Held*, temporary employees could not be made victim of their temporary service and they are required to be considered for regularization – It is their legitimate expectation to be regularized and they could not be made to suffer from misuse of arbitrary termination using outsourcing as shield and denial of basic rights and benefits they serving with Respondent authorities – Respondents directed to consider petitioner's claim for regularization – Petition allowed. [*Tijau Ram Tandon v. State of Chhattisgarh*]

(AMITENDRA KISHORE PRASAD, J.)
2025-III-LLJ-636 (Chg)

OCTOBER, 2025

AWARD OF PUNISHMENT

Substituting of Penalty – Industrial Disputes Act, 1947, Section 11A – Workman alleging insubordination punished with penalty of stoppage of two annual grade increments with cumulative effect – In appeal, penalty was reduced – Tribunal substituted penalty of stoppage of increment with penalty of censure – Whether, impugned order of Tribunal substituting penalty order, valid – *Held*, under Section 11A of Act, if the Tribunal satisfied that order of discharge or dismissal not justified has jurisdiction to substitute penalty with lesser penalty only if it is of dismissal – Employer inflicted upon workman punishment of stoppage of increment which substituted by Tribunal with penalty of censure – Tribunal not empowered to substitute subject punishment invoking Section 11A of Act as it did not relate to discharge or dismissal – Impugned award, set aside – Petition dismissed. [*Jaipur Vidyut Vitran Nigam Ltd v. Kulshekar Vyas*]

(MAHENDAR KUMAR GOYAL, J.)
2025-IV-LLJ-17 (Raj)
LNINDORD 2025 RAJ 1

CERTIFIED STANDING ORDER

Representation by Union – Appellate Authority passed order by which certified standing order framed by Petitioner-Company set-aside on ground that same framed without giving opportunity to workmen – Whether, impugned order passed by Appellate Authority, sustainable – *Held*, Appellate Authority clearly mentioned that elective representative of workmen appeared before Certifying Authority in person and no objection given by them – General Secretary of Respondent-union had given affidavit accepting therein that draft standing order which was also placed before Certifying Authority while passing order – Once member of Respondent's affidavit on record who is General Secretary and was representing Union order passed by Appellate Authority *perverse* – Once workmen being represented by their elected representative asking and consulting every in personal capacity could not be accepted – Impugned order passed by Appellate Authority, set aside – Petition allowed. [*Sunbeam Light Weighting Solutions v. State of Punjab*]

(HARSIMRAN SINGH SETHI, J.)
2025-IV-LLJ-39 (PNH)
LNINDU 2025 PNH 2

COMPASSIONATE APPOINTMENT

Married Dependent Son – Mother of Petitioner died in harness and Petitioner-son sought for appointment on compassionate grounds – Petitioner's application for compassionate appointment was rejected by Respondent No. 3 on ground of Petitioner being married – Whether, case of Petitioner for appointment on compassionate grounds rightly rejected by Respondent-Board – *Held*, as a rule, appointments in public services to be made strictly on basis of open invitation of applications subject to exceptions – Application filed by Petitioner accompanied with copy of Death Certificate of deceased – No notification excludes married dependent son of deceased employee from seeking compassionate appointment – Rejection of

case of Petitioner on ground of his being married prior to death of his deceased mother legally misconceived – Respondent seemingly delayed sanction without lawful justification Impugned communication, quashed – Petition allowed. [*Rakesh Kumar v. UT of J & KTh.*]

(JAVED IQBAL WANI, J.)
2025-IV-LLJ-70 (JNK)

DISMISSAL

Misconduct – Petitioner dismissed from service for misconduct by order of disciplinary authority and same confirmed by Appellate authority – Whether, impugned order passed in disciplinary proceedings, sustainable – *Held*, principle of reasonableness gives way to doctrine of proportionality – In disciplinary proceedings scope of judicial review limited to examining decision-making process – Issue of non-maintainability of Petition not raised at earliest possible opportunity – Well-established principle that notwithstanding existence of alternative remedy, petition might still be entertained – Whether demand of justice compelling, the Court might still choose to interfere despite delay – Delay explained in Petition thus ought not to be rejected solely on ground of delay – No evidence to establish that verification likely to cause pecuniary loss to Bank – Omission, mistake or lapse in performance of duty being unintentional and devoid of *mala fide* intent could not be classified as misconduct – Conduct of Bank of issuing show cause notice just before retirement not expected to uphold high standard of fairness – Enquiry Officer ought to provide clear reasons – Neither Disciplinary Authority nor Appellate Authority issued reasoned orders – Impugned order, set aside – Petition disposed of. [*Indranath Mukherjee v. UCO Bank*]

(PARTHA SARATHI CHATTERJEE, J.)
2025-IV-LLJ-48 (Cal)
LNIND 2025 CAL 2230

MINIMUM WAGES

Other allowance – Minimum Wages Act, 1948, Sections 2(h) and 4 – 1st Respondent allowed petition field by Respondents/workmen directing Petitioner/Management to pay minimum amount as per Government Order and that other allowances could not be taken into account to fix minimum wages, hence this petition – Whether minimum wages fixed by appropriate Government under heads of basic and dearness allowance had to be paid separately not less than amount fixed by authorities – *Held*, total wages paid to employees had to be taken into account to meet requirement of Act and each and every head could not be tested – Total amount to be taken into account for calculating minimum wages under Act – Once rates of minimum wages were prescribed whereas as all inclusive under Section 4(i)(ii) or by combining whether basic plus dearness allowances under Section 4(1)(i), were not amenable to split up – It was one pay package – Whether employees were being paid total sum which was higher than minimum rates of wages fixed under Act including costs of living index, was not required to pay each and every head minimum wages – When employer was paying total sum higher than minimum rate of wages fixed under Act including costs of living index, he was not required to pay Variable Dearness Allowance separately, however those higher wages should be calculated as defined under Section 2(h) – Total wages paid by Petitioner to Respondents were higher than minimum wages fixed by Government in total and in consonance

with Section 2(h) – Minimum wages could not be split up, but, authority under Act failed to consider same and *erroneously* held that basic pay and dearness Allowance fixed by appropriate Government as minimum wages had to be paid on each heads and other allowances could not be included – Order passed by 1st Respondent not in accordance with law and quashed – Petition allowed. [*Copral Energy Private Ltd v. Joint Commissioner of Labour*]

(P. DHANABAL, J.)
2025-IV-LLJ-100 (Mad)
LNINDORD 2025 MAD 2172

PAYMENT OF GRATUITY

Reasoned Order – Payment of Gratuity Act, 1972, Section 1(3)(c) – Application preferred by Petitioner challenging an order passed by the Appellate authority confirming order passed by the controlling authority holding that the Payment of Gratuity Act is applicable to the society – Whether, order of Controlling authority sustainable – *Held*, Controlling Authority duly adjudicated in accordance with law, passed detailed order calculating amount of gratuity the employee was entitled to – Findings of Appellate Authority based on materials on record – As seen from audit report it was clear that Petitioner-establishment was covered under Section 1(3)(c) of Act – As Act applied to Petitioner, the workman/Respondent entitled to dues as adjudicated by the authorities – Impugned orders required no interference – Application dismissed. [*Midnapur District Service v. State of WB*]

(SHAMPA DUTT (PAUL), J.)
2025-IV-LLJ-79 (Cal)
LNIND 2025 CAL 1377

PENSIONARY BENEFITS

Service Period – Upon being denied pension, original Petitioner-employee sought direction to Corporation for its grant but was rejected by Respondent no.2 – Whether, period of suspension could not be counted towards qualifying service for pension – *Held*, in view of award passed by Labour Court Petitioner's service to be treated as continuous – Petitioner was deemed to have continued in service as though no order of dismissal had ever been passed – During so-called period of non-employment, Petitioner was in service and drawing wages; such service could not lawfully be ignored by Respondent – Labour Court's award granting continuity of service from original date of dismissal until reinstatement binding on Respondent – Following his restoration, he served until his retirement thus unjustified for Respondent to deny him continuity of service for entire period – Respondents directed to reckon entire service of original Petitioner – Petition allowed. [*K. Gunasekaran v. Management of TNTCL*]

(DR. A.D. MARIA CLETE, J.)
2025-IV-LLJ-171 (Mad)
LNIND 2025 BMM 1941

POSTPONEMENT OF INCREMENT

Sustainability of Punishment – Workman in Respondent-transport Corporation was imposed punishment of postponement of increment on allegation that while driving he caused injury to pedestrian – Labour Court arrived at finding that enquiry conducted in fair manner and

confirmed order of punishment of postponement of increment on allegation that while driving he caused injury to pedestrian – Labour Court arrived at finding that enquiry conducted in fair manner and confirmed order of punishment imposed by Management – Whether, impugned order sustainable – *Held*, explanation offered by Driver to charge memo accepted by Management and later replicated in counter filed in Motor Accident Claims Petition – Counter filed by transport Corporation in proceedings suppressed – Management could not take contradictory stands before Tribunal and in domestic enquiry proceedings – Punishment imposed by Management, set aside – Management directed to release eligible monetary benefits to workman – Petition allowed. [*General Secretary, CITU v. Management of Tamil Nadu*]

(R. VIJAYAKUMAR, J.)
2025-IV-LLJ-168 (Mad)

REGULARIZATION OF SERVICE

Exclusion of Maternity leave – Constitution of India, 1950, Articles 14 and 15 – Maternity Benefits Act, 1961 – Petitioners filed present petitions challenging action of Respondents in regularization of their services after rendering more than 2 years of contractual term by excluding period spent by them on maternity leave – Whether it was permissible for employer to exclude period availed as maternity leave by female officers/officials from period required for regularization – *Held*, Petitioners were not regularized on completion of two years of their contractual period by excluding periods of their maternity leaves, availed by them, having been duly sanctioned, during their contractual service – To be mother was right of woman and therefore State being welfare and progressive State had guaranteed maternity leave of 180 days to every woman employee – Contractual or probation period should not be preventive factor or obstacle for woman who wants to be mother during this period – Seniority of such female employee should not go below her colleague of same batch on ground that she was absent on account of maternity leave – Discounting of maternity leave period, which was availed by each of Petitioners after having been duly sanctioned by competent authority, having regard to their statutory right under Act, being discriminatory on basis of sex, was not constitutionally permissible, as it offends provisions of Articles 14 and 15 of Constitution, which guarantee equal protection to men and women – Contractual terms could not limit statutory rights of Petitioners to be entitled to benefits of maternity leaves – Respondents could not resort to discriminatory acts while considering requisite period of two years for regularization of Petitioners vis-à-vis their other colleagues, on discounting maternity leave availed by Petitioners, being female workers – Respondents directed to treat period spent by Petitioners on maternity leave as continuous service, without discounting these periods, for their assessment on completion of two years, from their joining dates – Petitions allowed. [*Basu Magotra v. Jammu & Kashmir Bank Ltd*]

(M.A. CHOWDHARY, J.)
2025-IV-LLJ-147 (JNK)

TRADE UNION

Recognition – Petitioner-trade Union sought against Respondent no.1 for recognition of trade unions and permit check off system for members – Whether, Petitioner had right to represent on behalf of workmen and to be recognized – *Held*, since already two recognized

Unions available to redress grievance of workmen, Petitioner could not claim right to recognize – Writ of *Certiorarified Mandamus* would not lie against Respondent no.1 as recognition of Union not statutory right – Already settlements entered between Respondent no.1 and Respondent nos.4 and 5 and Petitioner not challenged such settlement – It is for Management to decide in respect of recognition and not Court – Court could not substitute procedure not specifically contemplated in law – Respondent no.4 having majority of workers had right to represent on behalf of workmen – Petitioner Union could not claim as matter of right to recognize – Petition dismissed. [*Madras Port Trust Employees v. Chennai Container Terminal*]

(P. DHANABAL, J.) 2025-IV-LLJ-85 (Mad)
LNINDORD 2025 MAD 2173

NOVEMBER, 2025

AGE OF SUPERANNUATION

Previous Appointment – Industrial Disputes Act, 1947, Section 2A (2) – Respondent-workman raised industrial dispute contending that order of non-employment was illegal – Labour Court allowed such industrial dispute and directed to continue his employment till 60 years – Whether, management rightly declared his age of retirement as 58 years – *Held*, reappointment order clearly indicated that workman reappointed – Bylaw binding upon workman – Special Bylaws of Society declared that age of retirement 58 years for all employees approved by Registrar – Previous appointment of workman irrelevant – Petitioner having attained superannuation on completion of 58 years could not contend that he was illegally dismissed from service – Labour Court had no jurisdiction to entertain application under Section 2A (2) of Act – Impugned award, set aside – Petition allowed. [*Co-operative Marketing Society Ltd v. G. Balasubramanian*]

(R. VIJAYAKUMAR, J.) 2025-IV-LLJ-266 (Mad)
LNINDORD 2025 BMM 905

COMPASSIONATE APPOINTMENT

Appeal against Rejection of Claim – Petitioner's claim for employment on compassionate grounds after death of her father in harness rejected by Respondents on ground that there was no provision for employment on compassionate grounds for married daughter – Whether, Respondent erred in rejecting claim of Petitioner – *Held*, reasons assigned by Respondents for rejecting case of Petitioner was not tenable – Pursuant to directions issued in an earlier petition, Respondents examined case of Petitioner on merit – Such claim could not be said to be suffering from delay – At time of death, deceased survived by his wife and three married daughters – Income of Petitioner's maternal family and income of her own family not exceed limit prescribed under policy – Impugned orders, set aside – Respondents directed to consider Petitioner for employment on compassionate grounds afresh – Petition disposed of. [*Savita v. State of H.P.*]

(JYOTSNA REWAL DUA, J.)
2025-IV-LLJ-303 (HP)

PREMATURE RETIREMENT SCHEME

Applicability to workmen – CCS (Pension) Rules, 1972 – Industrial Dispute Act, 1947 – Company made application for modification/amendment of the Certified Standing Orders with reference to decision of Government of India for Central Government employees who are beneficiaries of CCS (Pension) Rules, 1972 and are subject to fundamental Rules – Union filed its objection to the proposed amendment – Certifying Officer passed an order allowing the amendment/modification for Premature Retirement Scheme in respect of workmen/employees – Whether, such scheme could be applied to workmen – *Held*, as the said instructions relate to the officers of the company or the undertaking, the same are valid and requires no interference – But the same cannot apply to the workers who are not officers, as the said judgment on the basis of which the said instructions have been issued, do not apply to the workmen and is restricted only to the officers of an undertaking as DPE/Guidelines/II(f)/10 makes it clear that the said rule would not apply to employee covered under Act 1947, who are the workmen – Impugned orders, quashed – Applications allowed. [*G.R.S.E. Workmen's Union v. G.R.S.E. Ltd*]

(SHAMPA DUTT (PAUL), J.)
2025-IV-LLJ-307 (Cal)
LNIND 2025 CAL 3561

RECRUITMENT PROCESS

Right of Appointment from Reserved Category – Division Bench of High Court directed Appellants to absorb services of Respondent though his name placed in Reserved Panel – Appellants contend that such direction to absorb services of Respondent enlarges the right of a candidate placed in the reserved panel much after its expiry and runs counter to the Recruitment Rules – Whether, High Court erred in directing Respondent's absorption after expiry of such recruitment process – *Held*, mere placement in wait list does not create any vested right for being so appointed – Wait list operates for limited period – It could not be extended after fresh process of recruitment commenced – Any right that Respondent could claim as waitlisted candidate extinguished when all selected candidates joined – No vacancy was carried forward – No vested right in favour of Respondent to be appointed on any fresh vacancy arising in future – Waitlisted candidate did not have legal right to claim appointment – Giving effect to such statement would result in waitlisted candidate being given appointment which would definitely cause prejudice to candidates seeking recruitment in subsequent process – High Court erred in directing absorption of Respondent – Impugned judgment, set-aside – Appeal allowed. [*Union of India v. Subit Kumar Das*]

(ATUL S. CHANDURKAR, J.)
2025-IV-LLJ-241 (SC)
LNIND 2025 SC 1024

REGULARISATION

Alternative Remedy – Industrial Disputes Act, 1947 - Impugned order passed by Single Judge whereby relief claimed by Appellant regarding regularization turned down – Whether impugned order passed by Single Judge, sustainable – *Held*, clear that only certain

disputes can be deemed to be an industrial dispute relating to discharges, dismissal and retrenchment of individual workman – Appellant's case not falling within such corners instead was seeking regularization of services – Single Judge though opined that remedy for Appellant was to approach forum under Act but no such liberty reserved to avail remedy – Claim of Appellant's remedy under Act needs to be considered by writ court – Not proper to non-suit Appellant for a remedy under the I.D. Act which is not available to the Appellant/petitioner – Impugned order, set aside – Appeals disposed of. [*Ujjwal Maji v. Chairman Damodar Valley Corporation*]

(SUJOY PAUL, J. AND SMITA DAS DE, J.)
2025-IV-LLJ-252 (Cal)
LNIND 2025 CAL 2485

REGULARIZATION

Back Wages – Petitioner engaged on daily wage basis by Respondent-Board retrenched in illegal manner – Labour Court held Petitioner was entitled to reinstatement with 50% of back wages – Whether, Petitioner entitled for regularization when he completed 8 years of service from date of his initial appointment as well as ought to have been granted 50% back wages for entire period when he remained unemployed – *Held,* petitioner has been granted monetary benefits on notional basis, for the reason that he never worked against the post in question – Petitioner paid 50% of back wages for period starting from date of his retrenchment till his re-engagement – Since Petitioner prevented from doing his job on account of his illegal disengagement and thereafter such illegal disengagement set aside by Tribunal, Petitioner was entitled for reinstatement with seniority and continued service with 50% back wages – Principle of no work no pay could not be applied – Respondents directed to pay 50% wages to Petitioner a day before he was allowed to join duty and full wages when re-joined – Petition allowed. [*Deep Ram v. HPSEBL*]

(SANDEEP SHARMA, J.)
2025-IV-LLJ-324 (HP)

Employer-Employee Relationship – Contract Labour (Regulation and Abolition) Act, 1970 – Industrial dispute raised making demand for regularizing persons of co-operative society who has been allotted work order by Petitioner-Management – Tribunal Directed regularization – Whether, Tribunal justified in directing regularization of concerned persons – *Held*, workmen must prove that they were employees of Petitioner-Company – Nothing on record to establish the fact that such persons engaged by Petitioner – Award passed by Tribunal appears to be on presumption – Tribunal failed to appreciate that when any person not an employee then how Management could file attendance register – Finding given by Tribunal with regard to license under Act, 1970 *perverse* – Documents exhibited neither in Form-C nor any sort of stamp of Management rather it was of contractor – No employee-employer relationship between Petitioner and Workmen – Impugned award, set aside – Application allowed. [*Bharat Coking Coal Ltd v. Workmen Rep by Secretary*]

(DEEPAK ROSHAN, J.)
2025-IV-LLJ-316 (Jhar)

Fixed Tern Contract – Industrial Disputes Act, 1947, Fifth Schedule Item No. 10 – Union raised industrial dispute by filing reference seeking declaration that appointments of concerned workmen on Fixed Term Contract (FTC) being illegal required to be treated as permanent employees of Petitioner-Company – Tribunal by impugned award directed that concerned employees be granted benefit of permanency – Whether continued appointment of the workmen on a Fixed Term Contract basis amounts to an illegal and unconstitutional act or constitutes an unfair labour practice under the Act – *Held*, FTC workman not included within scope of Item 10 of Fifth Schedule therefore such workers to be treated at *par* with permanent employees – No conclusion could be drawn to suggest that FTC workmen subjected to exploitation or unfair labour practice – Workmen have not been deprived of benefits or pay scales available to permanent employees – Continuation of service beyond originally stipulated tenure in absence of legal right to regularization could not by itself confer upon workmen claim for permanent status – Number of workmen required to efficiently carry out operations must be left to discretion of employer – Tribunal empowered to interfere only where conclusively established that decision of management vitiated by unfair labour practices – In absence of such findings interference by Tribunal error of law – Impugned award, set aside – Petition allowed. [*TBEA Energy (I) Pvt. Ltd. v. GEGK Union*]

(M.K. THAKKER, J.)
2025-IV-LLJ-436(Guj)

UPPER LIMIT OF GRATUITY

Refund of Excess Amount – Payment of Gratuity Act, 1972, Sections 4(3) & 8 – Single Judge held that since the upper limit of gratuity payable to an employee should not exceed Rs. 10 Lakhs, the workman/Appellant has been granted relief more than what he was entitled to in accordance with law – Hence, the Court directed that the Respondent No. 1/company would be entitled to proceed in accordance with law for recovery of the excess payment of gratuity, against the workmen – Whether, Respondent No. 1-company would be entitled to proceed in accordance with law for recovery of excess payment of gratuity against Applicant-workmen – *Held*, delayed payment attract interest but calculation of gratuity amount anchored to date of retirement – Gratuity payable to person as per law prevalent on date of his retirement – On date of retirement as per Section 4(3) of Act, amount of gratuity payable to employee shall not exceed ten lakh rupees – Amended provision of Section 4(3) of Act *vide* Amendment Act XII of 2018 being substantive law conferring vested rights to beneficiary having prospective effect not applicable retrospectively to cover case of Appellant – Law passed today could not apply to events of past – Appellant not challenged legal provision existed on date of his superannuation – Appellant would be duty-bound to reimburse excess amount of money to Respondent company – Appeal dismissed. [*Narendra Pal Seth v. M/s Baynee Industries*]

(RAI CHATIOPADHYAY, J.)
2025-IV-LLJ-293 (Cal)
LNIND 2025 CALL 3096

DECEMBER, 2025

COMPASSIONATE APPOINTMENT

Female Dependent – After death of Petitioner's father, the application made by Petitioner for compassionate appointment, rejected by Respondent-authorities – Whether, Petitioner entitled for compassionate appointment – *Held*, immediately after death of deceased employee, application for compassionate appointment made by mother of Petitioner in favour of Petitioner – Could not be said that Petitioner was sleeping over her right for so many years – Though in service record of deceased employee another woman mentioned as wife but succession certificate granted in favour of Petitioner which was unsuccessfully challenged by such woman – Petitioner was female dependent upon the deceased employee and the Respondents could not ignore the provisions contained in National Coal Wage Agreement-VI to avoid its obligation – Impugned order, set aside – Respondents directed to consider matter afresh – Petition allowed. [*Ku. Shikha Shriwas v. South Eastern Coalfields Ltd*]

(SACHIN SINGH RAJPUT, J.)
2025-IV-LLJ-471 (Chg)

INDUSTRIAL DISPUTE

Validity of Reference – Industrial Disputes Act, 1947, Sections 2(k), 7A, 10(1) & Third Schedule Entry 11 – Petitioner sought for quashing the terms of reference in connection with dispute in relation to transfer of departmental labour – Whether, reference could be quashed – *Held*, Labour Court itself being creature of statute cannot go behind terms of reference – Petition maintainable – Change resulted in en masse transfer of all departmental labour – Rationalization of labour and resultant transfer *prima facie* industrial dispute between parties – Writ Court would not enter into disputed questions of facts – Transfer itself can also be industrial dispute within meaning of Section 2(k) read with Section 10(1) of Act – Rationalization included in Clause 9 of Third Schedule read with Section 7A of Act – Entry 11 of Third Schedule provides for other matter may be prescribed therefore list not exhaustive thus dispute rationalization of workforce forms part – Appointment of contractor and consequent transfer of all existing departmental workers qualifies industrial dispute thus terms of reference could not be quashed – Petition dismissed. [*Food Corporation of India v. Union of India*]

(DEEPAK ROSHAN, J.)
2025-IV-LLJ-492 (Jhar)

REGULARIZATION

Regular Appointment – Petitioners appointed pursuant to identical advertisements sought for regularization – Tribunal rejected such prayers on ground that they did not participate in regular recruitment process initiated by Respondents – Whether, Petitioners entitled for regularization – *Held*, when employees selected by regular recruitment and worked

continuously for several years performing duties essential for establishment they were entitled to regularization – Right to regularization substantive in nature – Appointment must not be illegal – Posts against which Petitioners were appointed are sanctioned posts – Petitioners employed on contract basis pursuant to advertisement – Regular selection process, therefore, took place, qualifications were prescribed, and petitioners fulfilled the qualifications – Nature of duties rendered by Petitioners were essential and perennial – Service rendered by them were blemish free – Petitioners entitled to be regularized – Impugned orders of Tribunal, set aside – Petitions allowed. [*Pawan Sharma v. Government of NCT of Delhi*]

(C. HARI SHANKAR, J.)
2025-IV-LLJ-638 (Del)
LNIND 2025 DEL 8205

TERMINATION

Eligibility Criteria – Jurisdiction – Maharashtra Recognition Trade Union and Prevention of Unfair Labour Practices Act, 1971, Section 28, Schedule-II & Schedule-IV – Respondent-complainants' service terminated by Petitioner-company for loss of confidence – Industrial Court setting aside such termination orders directed Petitioner to reinstate the Complainants – Whether, termination of complainant lawful for reason of loss of confidence – *Held*, during pendency of complaint for unfair labour practice, employees who were member of Union dismissed from service – Termination order in violation of interim order of Industrial Court – Case fall within jurisdiction of Tribunal under Section 28 and Schedule-II and Schedule-IV of MRTU & PULP Act, thus Industrial Court had jurisdiction – Evidence indicated that appointment of complainants was from open market – Evidence of Management not indicated that all similarly placed employees had ITI qualification – Complainants' job not require only ITI qualified persons – Reason for calling upon their ITI certificates after five years of service not bonafide – No formal inquiry conducted in process for termination – Termination being illegal, order of backwages could not be faulted with – Petition dismissed. [*L.G Balakrishnan & Bros Ltd v. Aurangabad Mazdoor Union*]

(ARUN R. PEDNEKER, J.)
2025-IV-LLJ-587 (Bom)