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LEGAL NEWS

Q – 4 OCT - DEC. 2024

ALL INDIA BANK EMPLOYEES' ASSOCIATION

LEGAL NEWS
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BULLETIN Q – 4
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OCTOBER

DENIAL OF APPOINTMENT

Pendency of Criminal Case – Petitioner denied appointment by Respondents on ground of pendency of criminal case against him – Whether, action of Respondents in denying appointment to Petitioner on ground of pendency of criminal case was unreasonable – *Held*, not case where Petitioner could be said to be accused of committing offence involving moral turpitude – Mere involvement in criminal case when trial underway not mirror to reflect criminal character of person – Deserving person denied appointment then after acquittal little scope for him to get Government employment – Pendency of criminal case which does not involve moral turpitude, could not be construed as impediment in appointment – Action of Respondents in denying appointment to Petitioner, unreasonable – Petitioner entitled for appointment – Petition allowed. [*Ranveer Kumar v. Jodhpur Vidhyut Nigam Ltd*]

(FARJAND ALI, J.)
2024-IV-LLJ-192 (Raj) LNINDORD 2024 RAJ 1

DENIAL OF PROMOTION

Administrative Exigency – Respondent sought promotion on specific earlier date which was denied by Appellants – Division Bench set aside order of Single Judge and directed Appellants to promote Respondent – Whether, Respondent was entitled to all the benefits of the post of Joint Secretary with retrospective effect – *Held*, no error in stand taken by the appellant-Board, whereby Respondent's *plea* for shifting his date of promotion to the post of Joint Secretary from 5th March, 2003 to 29th July, 1997 was rejected for reason that there was no vacant post of Joint Secretary during the above-said period on account of fact that after the bifurcation of the erstwhile State of Bihar into the present State of Bihar and Jharkhand – Appellant-Board had taken a calibrated decision to slash the number of sanctioned posts of Joint Secretary from six to three – Right for being appointed to promotional post could not be treated as vested right – When actual vacancy arose Respondent granted benefit of accelerated promotion – Action of Board guided by administrative exigencies – Appeal allowed. [*Bihar State Electricity Board v. Dharamdeo Das*]

(HIMA KOHLI, J)
2024-IV-LLJ-1 (SC) LNIND 2024 SC 307

EXTRA WAGES

Work on Saturday –Industrial Disputes Act, 1947. Section 33C – Employees, who had worked on Saturdays/holiday period, filed applications under Section 33C(2) claiming 'extra wages' – Industrial Tribunal(s) accepted *plea/*claim of employees in one setoff cases and rejected claim in other set of cases, hence these petitions – Whether employees of different departments/offices of State in question were entitled to be paid extra wages or not, for duty performed by them on Saturday, which otherwise was non-working day being holiday, as there was concept of working of five days in week in public Offices in State – *Held*, in *Municipal Employees Union (Regd.) Sirhind and Others v. State of Punjab and Others,* Apex Courtfound that duties of office staff employees and field staff employees of Octroi Department were inter-changeable because any employee working in office enjoying two complete 'off days', *i.e.* Saturdays and Sundays, at time of need or exigencies of Service, could be deputed for field duty also, even on Saturdays and holidays – There was common seniority list of both sets of employees and they were governed by one set of Service Rules – Impliedly, all of employees were found to enjoy 'two off days' per week – In case of set of employees, who had been deputed in field areas, during Saturdays or holidays, Apex Court held them entitled for 'extra wages' for such days, by applying 'principle of equality', so as to avoid discriminatory treatment with one set of employees – Only after holding their entitlement, Apex Court granted them liberty to initiate recovery process through application under Section 33C(2) of Act – Case of every employee had to pass through test of *Sirhind's case,* so that employee might claim his right or entitlement for extra wages for working on Saturdays or other off-days – Most of applications under Section 33C(2) did not contain details of service conditions and rules by which such services were governed – Under misconception and without understanding spirit of judgment of Apex Court in *Sirhind's*case, claim was placed before Industrial Tribunals – Tribunals erred in law by directly entertaining applications under Section 33C(2), without there being any finding or declaration/order/decree/award holding entitlement for monetary benefits for any valid reason, after examining service conditions and Rules applicable to service – Employees had not referred Rules applicable to their Service and in what manner their right was made out, so as to raise claim for recovery of money as arrears of extra wages/compensation by moving application(s) under Section 33C(2) – Conditions of service and applicable Rules missed out – All claims left open for employees to firstly get entitlement of extra wages/compensation for working on Saturdays/holidays as proved/declared through appropriate proceedings before concerned Forum, and thereafter by calculating amount in terms of money, application might be filed again under Section 33C(2) before Labour Court/Industrial Tribunal – Observation/directions issued.[*Kasturi Lal v. Municipal Corporation*]

(SANJAY VASHISTH, J.)
2024-IV-LLJ-28 (PNH)

JURISDICTION OF TRIBUNAL

Terms of reference – Industrial Disputes Act, 1947, Sections 10 and 25-F – Tribunal passed award directing Petitioner to pay four years' wages as retrenchment compensation and another award directing re-instatement of employees with 25% back wages and gave liberty to retrench employees with four years' wages as retrenchment compensation, hence these petitions – Whether Tribunal could transgress beyond terms of reference which pertained to regularization of Respondent/workmen and adjudicate upon issues relating to retrenchment of workmen – *Held,* issues of regularization and retrenchment compensation were distinct and not inter-twined or incidental to each other – Right of workman to seek regularization pertains to duration of their employment, allowing them to transition from temporary or contractual role to permanent position based on specific criteria or conditions – Retrenchment compensation comes into effect when employer terminates workman's services – Issue of regularization concerns status of employment and could be pursued during tenure of employment, whereas retrenchment compensation was consequence of termination and was relevant only after termination had occurred – These issues operate distinctly and at different stages of workman's employment – As per terms of reference, Tribunal was bound to restrict itself to adjudication on validity of claim for regularization – Tribunal deciding issue not referred to it would be exceeding its jurisdiction and such action would be in teeth of Section 10(4) of Act which mandates tribunal to confine its adjudication to issues referred to it – Tribunal exceeded its jurisdiction by adjudicating on issue of retrenchment compensation, which was beyond scope of reference – Tribunal erred in awarding compensation in excess of what was prescribed under Section 25-F of Act – Impugned awards, set aside – Petitions allowed. [*Cement Corp. of India Ltd v. Prakash Veer Tomar*]

(CHANDRA DHARI SINGH, J.)
2024-IV-LLJ-225 (Del)
LNIND 2024 DEL 5146

SERVICE LAW

Non-selection – Recommendation of Selection Committee – Constitution of India, 1950, Articles 14 and 16 – Petition filed challenging action of Respondents for non-selection of Petitioner to the post of Professor considering reports of Selection Committee minutes and consequently, to direct Respondent to promote Petitioner based on interview heldon 11.02.2022 with retrospective effect from 14.09.2019 with all monetary and other attendant benefits – Whether or not the rejection of the CAS promotion to Petitioner to the post of Professor is in order – *Held*, the letter and spirit of the Regulations, not only require that the Selection Committee members shall meet and recommend the case for promotion in the right spirit and intention, but also, such intention and spirit, should be demonstrated by transparent, credible and objective criteria – The same is lacking in the instant case – Procedure adopted by the Selection Committee does not stand the scrutiny of Articles 14 and 16 of the Constitution and the

present procedure adopted by Selection Committee is arbitrary and vague which strikes at the very purpose of the detailed Regulations which are framed by the University Grants Commission – Impugned action taken report of the Syndicate of the first respondent in its proceeding dated 17.03.2023 and impugned selection committee minutes of the first respondent held on 11.02.2022 in so far as non-selection of Petitioner to the post of Professor shall stand quashed – Respondent-University directed to reconstitute Selection Committee with new expert members – Petition allowed. [*Dr. T. Sumathi v. Vice Chancellor*]

(D. BHARATHA CHAKRAVARTHY, J.)
2024-IV-LLJ-13 (Mad)

TERMINATION OF SERVICE

Probationer – Rajasthan Service Rules, 1951, Rule 23A – Services of Petitioner who was appointed on probation, terminated by Respondents – Whether, Respondents justified in terminating service of Petitioner by invoking Rule 23A of Rules – *Held*, clear from affidavit filed by Respondents they consciously terminated service of Petitioner invoking Rule 23A of Rules treating him as temporary employee and not on account of *bona fide* error – Courts could not make out case of its own *dehors* pleadings – Services of probationer could not be terminated invoking Rule 23A of Rule – Impugned order, quashed – Petition allowed. [*Mahesh Kumar v. State of Rajasthan*]

(MAHENDAR KUMAR GOYAL, J.)
2024-IV-LLJ-198 (Raj)
LNIND 2024 RAJ 2

NOVEMBER

COMPASSIONATE APPOINTMENT

Limitation – Constitution of India, 1950, Articles 14 and 15 – Conflict of opinion arose between two Division Benches of this Court in *A. Kamatchi v. The Chairman, Tamil Nadu Electricity Board, and Secretary to Government v. Renugadevi* regarding limitation on filing applications for appointments on compassionate basis, hence this reference – Whether view taken in *A. Kamatchi's* case holding that application for compassionate appointment made even beyond three years of death of deceased needs consideration, was correct law or judgment of Division Bench in *N. Renugadevi's* case, where contradictory view had been taken, was correct law – *Held*, appointment on compassionate grounds was not source of recruitment and exception to general rule – Appointment to service in State could be made only in accordance with Article 14 and 16 of Constitution – Dependants of employees who died in harness did not have any right to employment except by way of concession, that was under service rules or by

separate Scheme to enable family of deceased to get over financial crisis and destitution – Claim of appointment on compassionate basis was therefore traceable only to service rule permitting such appointment on compassionate basis or scheme framed for this purpose – Scheme or Government orders had not been challenged – Appointment on compassionate basis had to be strictly followed in accordance with relevant Government Orders of Scheme that had been framed by employer – Any deviation from scheme was not permissible – Judgment of Division Bench in *E. Ramasamy v. Tamil Nadu Electricity Board and Secretary to Government v. Renugadevi,* laid down correct law and judgment of Division Bench in *A. Kamachi v. The Chairman, Tamil Nadu Electricity Board,* which was contrary to scheme framed by Tamil Nadu Electricity Board did not lay down correct proposition – Reference answered accordingly. [*Nandini Dev v. The Secetary, HFWD*]

(SUBRAMONIUM PRASAD, J.)
2024-IV-LLJ-347 (Mad)

Limitation– Whether view taken in *A. Kamatchi's* case holding that application for compassionate appointment made even beyond three years of death of deceased needs consideration, was correct law or judgment of Division Bench in *N. Renugadevi's* case, where contradictory view had been taken, was correct law – *Held*, claim of compassionate appointment was not heritable right and being exception to ordinary rule of law and jurisprudence of public employment, it had to stand test of scrutiny of fundamental rights guaranteed in Constitution for reason that there were millions standing in queue for public employment even when there was no deceased employee in their family – Such aspects need not be overlooked in name of mere sympathy or compassion – Request for appointment on compassionate grounds should be proximate to death of employee and, therefore, period of three years was reasonable period as contained in scheme of Government Order – Compassionate appointment should be made be only in accordance with Rules or Scheme applicable and not beyond same as travelling beyond limits of Rules and Scheme would negate rights of those who were otherwise eligible for public appointment which would have been available to them but for claim of compassionate appointment – Period of three years was *rational* and reasonable period under relevant Government Orders and Rules – No indication in Government Order or Scheme within what period application for compassionate employment should be disposed of – Until any such Rules were framed or Government Order was issued or provision was made in Scheme, claim of compassionate appointment on date when it was received should be disposed of immediately without causing any delay but preferably not beyond period of six months from date of submission of such application – Reference answered. [*Nandini Dev v. The Secretary, HFWD*]

(AMRESHWAR PRATAP SAHI, CJ. AND ABDUL QUDDHOSE, J.)
2024-IV-LLJ-347 (Mad)

DISMISSAL

Misconduct – Industrial Disputes Act, 1947, Sections 10 & 11-A – Order of dismissal passed against Respondent-employee for misconduct – Labour Court declared that misconduct was not proved and findings were baseless – Whether, Labour Court justified in altering punishment of Petitioner – *Held*, Petitioner right in awarding punishment of dismissal for losing faith on Respondent – Finding recorded by inquiry officer reached to its finality as it was never challenged by Respondent – Not open for Labour Court to interfere with *quantum* of punishment recorded by inquiry officer after full-fledged inquiry – Without prayer under Section 11-A of Act, Labour Court erred in interfering in order of inquiry while exercising Section 11-A of Act, Labour Court erred in interfering in order of inquiry while exercising jurisdiction under Section 10 of Act – Once corporation lost confidence in workmen, Management has right to remove him – Impugned order, set aside – Petition allowed. [*Divisional Controller v. Hasanbhai Fakirbhai Vhora*]

(HEMANT M. PRACHCHHAK, J.)
2024-IV-LLJ-279 (Guj)

Misconduct – Petitioner dismissed from service for misconduct – Single Judge remanded matter back to Appellant-Corporation for reconsideration – Whether, Disciplinary Authority rightly dismissed Petitioner from service as employment sought by Petitioner on basis of forged document – *Held*, Single Bench duly analyzed findings recorded by the enquiry officer – Charge leveled against him in accordance with prescription of Certified Standing Orders – Application stipulated that Applicant liable to immediate disqualification in case of furnishing incorrect information for securing employment – Employment sought by Petitioner on basis of forged document, thus no lenient view could be taken – Doctrine of proportionality could not be invoked where root of employment based upon forged document – No reason to interfere with *quantum* of impugned punishment – Petition allowed. [*BPCL v. Gyan Chand*]

(DR. PUSHPENDRA SINGH BHATI, J.)
2024-IV-LLJ-295 (Raj)
LNIND 2024 RAJ 1

Sustainability – Industrial Disputes Act, 1947, Sections 33(1)(b), 33(2)(b) and *proviso* to Section 33 – Management dismissed workmen who disregarded transfer – Tribunal set aside order of dismissal and directed reinstatement – Single Judge held that since workmen were dismissed without seeking permission before Tribunal before which Industrial Dispute were pending, orders of dismissal could not be sustained – Whether, Single Judge justified in setting aside order of dismissal passed by Management– *Held*, procedure to be adopted by the Management, as provided under *proviso* to Section 33(2)(b) of the Act, while dismissing or discharging a workman, is mandatory and therefore, failure to make an application either for permission to discharge or dismiss a

workman under Section 33(1) or failure to make an application for approval under Section 33(2)(b), would render the order of dismissal or discharge, ab initio *void* and inoperative – Management ought to comply with requirements of the *proviso* to Section 33 of Act – Impugned order does not require interference – Appeals dismissed. [*Management of GEM Granites v. Presiding Officer*]

(M.S. RAMESH, J.)
2024-IV-LLJ-396 (Mad)
LNIND 2024 MAD 5710

Wages – Industrial Disputes Act, 1947, Sections 33(2)(b) *Proviso* and 33(5) – Appellant-workman dismissed from service – Tribunal found that Management had not complied with requirements under *Proviso* to Section 33(2)(b) of Act and rejected application filed by Management for dismissal – Appeal filed by Management allowed by Single Judge, hence this appeal – Whether, impugned order passed by Single Judge, sustainable – *Held*, compulsory for Management to pay the full wages of a month, had the workman attended his regular duties – Heads of remunerations which he would be legally entitled could be termed as wages under Section 33(2)(b) – Entitlement of workman to receive interim relief not contingent upon any condition – Management had not included the remuneration under the head of concessional value of health drinks coupons and coconut oil in one month wages paid to workman under Section 33(2)(b) of Act, which is in violation to the very definition of the term wages – Upper limit of three months prescribed under Section 33(5) not mandatory rather directory – Impugned order, set aside – Management directed to allot duty to Appellant-workman – Appeal allowed. [*M. Madhan v. Management of MRF Limited*]

(M.S. RAMESH, J.)
2024-IV-LLJ-406 (Mad)
LNIND 2024 MAD 5708

PAYMENT OF GRATUITY

Employer-employee relationship – Commissioner allowed applications filed by Respondent-employees and directed payment of gratuity to them – Such orders upheld by Appellate Authority – Whether, Controlling Authority rightly directed payment of gratuity to Respondents by Petitioner – *Held*, Respondents not travelled with their contractors to different organisations during tenure of their long services – Controlling Authority could go into issue of relationship of employer-employee between parties – Court did not approve impleadment of company to application filed against contractor for payment of gratuity – None of contractors paid salaries to Respondents never made them work for single day outside Petitioner – Difficult to hold Respondents were working on establishment of contractors and not on establishment of Petitioner – Their services rendered on establishment of Petitioner and not on establishment of new

contractors – Respondents continuously worked at campus of Petitioner through multiple contractors – Controlling Authority rightly directed Petitioner to be employer and liable to pay gratuity to Respondents – Petitions dismissed. [*IIT, Bombay v. Tanaji Babaji Lal*]

(SANDEEP V. MARNE, J.)
2024-IV-LLJ-415 (Bom)
LNIND 2024 BOM779

REGULARIZATION OF SERVICE

Temporary Appointment – Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices, 1971, Section 30 – Union raised demand for regularization of services of its members – Labour Court held there being Master-Servant relation Management by not regularizing them adopting unfair trade practice – Whether, impugned order of Labour court, sustainable – *Held*, under Section 30 of Act, Labour Court had power to declare any practice as 'unfair labour practice' – Labour Court transgressed its power while holding that absence of specific provision like Section 30 of Act would not denude Tribunal to remove unfair discrimination – Court constituted under particular Act could not travel beyond Act – In absence of permanent post no question of making mess workers permanent executive – Order of Labour Court bad in eye of law – No vested right in those employed on contract basis to claim right to be absorbed in service – Employees not been appointed following procedure for regular appointment could not be regularized – Impugned order, set-aside – Petition allowed. [*Board of Governors v. Mess Kalyan Employee Union*]

(JAGMOHAN BANSAL, J.)
2024-IV-LLJ-448 (P&H) LNIND 2024 PNH 8

REMOVAL

Reinstatement – Respondent no.4 ordered for imposing punishment of removal from service to Petitioner – Tribunal dismissed application filed by Petitioner and refused to exercise discretion in favour of him – Whether, Petitioner could be reinstated as acquittal ordered in criminal case – *Held*, period spent for disposal of criminal trial could not be attributed to Petitioner – Since Petitioner not responsible for such delay, application ought not to have been dismissed by Tribunal – Allegations in both proceedings identical – Mere suspicion should not be allowed to take place of proof in domestic enquiries – Where punishment found to be disproportionate to misconduct committed matter need to be remitted – Punishment of removal imposed on petitioner too harsh – Respondents directed to impose punishment of reduction to lower stage – Petitioner deemed to have been reinstated – No precise formula for grant of back wages – Respondents directed to disburse all retiral benefits in favour of Petitioner – Petition disposed of. [*Subal Makhal v. Indian Red Cross Society*]

(TAPABRATA CHAKRABORTY, J.)
2024-IV-LLJ-310 (Cal) LNIND 2024 CAL 1849

TEMPORARY APPOINTMENT

Claim for Regularisation– M.P. Contractual Appointment to Civil Post Rules, 2017, Rule 11(2) – Respondents-Petitioners appointed on temporary basis and whose contract was not renewed, sought for regularization – Single Judge directed to reinstate Petitioners with a direction to Appellant/State to decide the question of back-wages, hence this appeal – Whether, Petitioners appointed on temporary basis entitled for regularization – *Held*, initial appointments of Petitioners were on temporary basis – By mere extending period of contract conditions of employment were not changed – Contract not renewed after period was over – Since Petitioners were not removed, no need to grant opportunity of hearing – Contractual employee could not claim regularization – Merely because contractual employee continued beyond term of his appointment, he would not be entitled to be absorbed in regular services – No material to show unfair action taken by Commissioner – Impugned order, set aside – Appeal allowed. [*State of MP v. Rajeev Singh*]

(SHRI VINAY SARAF, J.)
2024-IV-LLJ-320 (MP)

TERMINATION

Daily Wager – Industrial Disputes Act, 1947, Section 25-F – Constitution of India, 1950, Articles 12, 14 and 16 – Termination of Petitioner's service as daily wager passed by Respondent upheld by Tribunal – Whether, Petitioner entitled for reinstatement – *Held*, Petitioner failed to prove working for more than 240 days to get benefit of Section 25-F of Act – Petitioner not able to prove that he worked on regular basis – No procedural irregularity found in discontinuing engagement of Petitioner – Section 25-F of Act, not violated – Respondent being State under Article 12 of Constitution required to make appointments through proper selection process in terms of Article 14 and 16 of Constitution – No advertisement issued and neither any selection process followed prior to engaging Petitioner as daily wager – No grounds to interfere with impugned award – Petition dismissed.[*Binoy Kumar Sinha v. State Bank of India*]

(MICHAEL ZOTHANKHUMA, J.)
2024-IV-LLJ-340 (Gau)LNIND 2024 GAU 2

DECEMBER

BENEFIT OF INCREMENT

Higher Qualification – Respondent initiated proceedings against Petitioner to recover alleged excess drawn advance increments – Audit query raised following Government order – Whether, Petitioners having higher qualification on date of joining

service prior to 2010 Regulations would be entitled for advance increments – *Held*, Petitioners were having both B.Tech as well as M.Tech at that point of time – They are entitled for benefits of two advance increments on the basis of 2000 Regulations – Concerned Notification would not apply – Impugned proceedings initiated against Petitioners not be justifiable – Petitioners attained higher qualifications subsequent to 2010 Regulations would not be entitled for such benefit of this judgment – Petitioners who had higher qualification on date of joining service of Respondent prior to 2010 Regulations would be entitled for advance increments under 2000 Regulations – Impugned orders, quashed – Petitions allowed. [*Lizy Abraham v. State of Kerala*]

(HARISANKAR V. MENON, J.)
2024-IV-LLJ-537 (Ker)

CEASE FROM SERVICE

Denial of Gratuity – Payment of Gratuity Act, 1972, Section 7 – Appellant-employee ceased from service in bank in view of disciplinary proceedings pending against him – Controlling Authority directed for disbursal of gratuity dues allowing Appellant's claim – Writ Court by common order allowing Petition filed by Bank setting aside order passed by Controlling Authority directed to conclude disciplinary proceedings – Whether, Appellant could be entitled to pensionary benefit on attaining superannuation – *Held*, when employee was not in service, bank could not deny gratuity – Gratuity Act could not be overruled by Bank's Staff Service Regulations – No charge that Appellant caused damage or loss to bank due to his action – Without placing employee under suspension Appellant could not be considered to be in service even after superannuation for purpose of continuation of disciplinary proceedings – No intimation about pendency of departmental proceedings in acknowledgement letter – Writ Court withheld gratuity without considering Section 7 of Act – Since Appellant not placed under suspension denial of gratuity not acceptable – Mere participation in dharna wouldnot amount to misconduct – Order of Controlling Authority confirmed – Impugned order, set aside –Cessation order passed by Respondent-Bank, set aside – Appeals allowed. [*J. Mathavaraj v. General Manager*]

(J. NISHA BANU, J.)
2024-IV-LLJ-576 (Mad)
LNINDORD 2024 MAD 2677

CONDONATION OF DELAY

Sufficient Cause – Petition filed by worker challengingaward of Labour Court wherein application filed to condone delay of 2752 days in restoring petition, dismissed – Whether, delay could be condoned – *Held*, even after filing of conciliation, Petitioner had taken 3 year's time to file Industrial Dispute – Petitioner sought to condone several years delay did not choose to examine himself as witness – Petitioner had duty to

explain each and every day's delay for satisfaction of Court – Generalised statement that he had met with accident could not be sufficient to condone such huge and inordinate delay – If he had not been employed elsewhere not possible for him to survive – Delay could not be condoned – Petition dismissed. [*G. Narayanan v. Management, R.A.P. Manufactures Ltd*]

(R.N. MANJULA, J.)
2024-IV-LLJ-496 (Mad)

DEPARTMENTAL PROEEDINGS

Imposition of Punishment – Respondent-workman placed on basic pay of driver for specified years by Petitioner corporation due to accident occurred for negligent on part of him – Tribunal held findings of departmental inquiry *perverse* – Whether, Industrial Tribunal *erred* in exercising its power while interfering in order of punishment imposed by authority – *Held*, once right of legality of inquiry proceedings waived, not open for Tribunal to interfere with order of punishment imposed by authority and confirmed by Appellate Authority – When person waived its right to challenge legality of inquiry not open for Tribunal to enter into order passed by both authorities – Order of imposing punishment confirmed by reducing level of year – Impugned order, modified – Petition allowed. [*Divisional Controller v. KanubhaiAmbala Patel*]

(HEMANT M. PRACHCHHAK, J.)
2024-IV-LLJ-659 (Guj)

DISMISSAL

Breach of Provision – Indian Overseas Bank Officer Employees (Conduct) Regulations, 1976 – Appellate authority confirmed order of dismissal as imposed on Respondent-employee – Writ court held that punishment was disproportionate, hence this appeal – Whether, impugned order sustainable – *Held*, Respondent being experienced officer of Appellant-bank served Institution over decades – Bankers as Trustees of public money owe great deal of responsibility to ensure security of funds entrusted to them – No title clearance obtained Branch Manager as required under Regulations – Title Deed Register not containing particulars of documents relating to guarantor which was serious breach – By not entering of details of documents Respondent committed serious error – Acceptance of guarantor without photo clear violation of procedures – Court not concerned with quantification of amount but emphasize conduct of Branch Manager – Writ Court erred in coming to such conclusion – Appeal allowed. [*Disciplinary Authority v. J. Thomas Karunanithi*]

(DR. ANITHA SUMANTH, J.)
2024-IV-LLJ-675 (Mad)
LNIND 2024 MAD 6316

Principles of Natural Justice – Appellant dismissed from service for misconduct Single Judge confirmed award passed by Labour Court and held that dismissal of Appellant was perfectly justified – Whether, dismissal of Appellant justified though he had been provided fair and reasonable opportunities in Domestic Enquiry – *Held*, Appellant not even provided with list of witnesses before proceeding with cross examination – Clear that unwarranted hurry without observing principles of natural justice, enquiry has been conducted in unfair manner – Denial of reasonable opportunity of defence – Single Judge failed to consider scope of principles of natural justice – When charges were same in relation to same incident, not open for disciplinary authority to give different treatment in respect of Appellant in respect of others – Appellant refused to admit guilt thus discriminated – Punishment of dismissal grossly disproportionate – No order of reinstatement could be given hence compensation directed to be given by Management to Appellant-workman – Impugned order, set aside – Appeal allowed. [*R. Krishnan v. Management of Graigmore Estate*]

(J. NISHA BANU, J.)
2024-IV-LLJ-560 (Mad)
LNIND 2024 MAD 5974

Reinstatement- Petitioner, working as driver, was dismissed from service by Respondent – Petition filed by Petitioner for reinstatement dismissed by Single Judge, hence this appeal – Whether, order of Single Judge, sustainable – *Held*, order rejecting approval petition affirmed by Court hence dismissal of petition on ground that employee had not challenged order of dismissal could not be sustained – Availability of alternative remedy not absolute bar for exercising writ jurisdiction – Fact that Corporation unable to get approval for order of dismissal would show that charges not established – Since Petitioner retired from service, he would be entitled to all arrears of salary and all the monetary benefits including pension – Appeal allowed. [*N. Paulraj v. General Manager, TNSTCL*]

(R. SUBRAMANIAN, J.)
2024-IV-LLJ-552 (Mad)
LNIND 2024 BMM 2948

IMPOSITION OF PUNISHMENT

Locustandi– Industrial DisputesAct, 1947, Section 2(qq) – Dispute raised by Respondent no. 2 before Respondent no. 1 challenging order of Petitioner imposing punishment on individual workman - Tribunalheld that Respondent no. 2 had *locustandi* to raise dispute in respect of employees – Whether, Respondent association had *locus* to espouse case of workman who was imposed punishment of lowering his basic pay - *Held,* insertion of Section 2(qq) by Amendment Act only registered trade union could espouse cause of its workmen – Registration of trade union gave stamp of due formation of trade union and assured mind of employer that trade union was

authenticated body – Respondent no. 2 had no *locusstandi* to espouse cause of workman – Petition allowed. [*IOB Central Office v. Asst. Labour Commissioner (Central)]*

(N. MALA, J.)
2024-IV-LLJ-492 (MAD)
LNINDORD 2024 MAD 2741

PENSIONARY BENEFIT

Legal Heirship – Hindu Marriage Act, 1955, Section 16 – Petitioner legally wedded wife of deceased employee sought terminal or pension benefits of her deceased husband – Respondent no. 2 issued legal heirship certificate in favour of Respondent no. 4-second wife of deceased – Whether, Respondent no. 2 justified in issuing legal heirship certificate in favour of second wife of deceased – *Held*, if a Hindu who had solemnised valid marriage with Hindu female could not bring to end marital ties with Hindu wife by mere conversion to another religion so long as earlier marriage subsisting – Without getting marriage with Petitioner dissolved marriage of deceased with Respondent no. 4 could not be legalized – Legal heirship certificate not correct therefore set aside – Children born to second marriage entitled for terminal benefit of deceased under section 16 of Act being legitimate – Respondent no. 1 directed to release terminal benefits of deceased to Petitioner, her daughter, mother-in-law and said three children in equal shares – Petition allowed. [*Anitha T v. Kerala State Civil Supplies*]

(HARISANKAR V. MENON, J.)
2024-IV-LLJ-522 Ker)
LNIND 2024 KER 8

REGULARIZATION

Exceed of Jurisdiction – Contract Labour (Regulation and Abolition)Act, 1970, Section 10 – Respondent-workmen pursuant to industrial dispute filed Statement of Claim – Tribunal as well as Single Judge held against Appellant on ground that holding contract being mere camouflage and Petitioner was principal employer – Whether impugned order, sustainable – *Held*, clear from Statement of Claim that work carried out by Respondent perennial but they were discharging duties identical to permanent employees – Tribunal acted in excess of jurisdiction while framing issue though issue was of regularization – Mere issuance of notification under Section 10 of Act would not lead to workmen being absorbed in establishment of principal employer – In absence of pleading impermissible for industrial adjudicator to accord relief based on its perception of nature of contractual engagement – No question of contractual engagement arisen – Impugned order, set aside – Appeal allowed. [*Management of Ashok Hotel (ITDC) v. Their Workmen*]

(YASHWANT VARMA, J.)
2024-IV-LLJ-590 (Del)

RETRENCHMENT

Notice – Industrial Disputes Act, 1947, Section 25-F – Services of Respondent-workman terminated by Petitioners – By impugned order of Labour Court Respondent directed to be reinstated with back wages – Whether, retrenchment order passed by Petitioner against Respondent in compliance to Section 25F of Act – *Held*, as per Section 25F(a) of Act, if employer gives one month's wages then he could dispense sending of one month's notice – Notice need to be given to appropriate Government when employer gives one month's notice to workman for retrenchment – Workman given wages of one month and compensation for retrenchment Compliance of Section 25F(c) of Act – Order of retrenchment communicated to appropriate Government – Labour Court given liberty to Petitioners for retrenchment – Workman retrenched by following due process of law – Petition allowed. [*Krishi Upaj Mandi S.P. v. Mukesh Kumar Bhatt*]

(ANAND PATHAK, J.)
2024-IV-LLJ-650 (MP)

Monetary Benefit – Industrial Disputes Act, 1947, Section 33(C)(2) – Appellants who were terminated from services directed reinstatement by High Court – Claim Petition filed by Appellants to compute monetary value of benefits due, allowed by Labour Court on presumption that they were entitled to wages by comparing with regular employee – Writ Court set aside entire order of Labour Court, hence this appeal – Whether, Appellants entitled to monetary value of benefits due comparing with regular employee – *Held*, when award gets substituted by order of High Court, Respondent management bound to reinstate Appellants – Labour Court rightly considered issue under Section 33(C)(2) of Act – When continuity of service given in award employee must to be reinstated as regular employee – No perversity in findings of Labour Court – Appellants need not go into another litigation to get monetary value – Cogent reason given by Labour Court – Respondent management directed to pay amount as computed to Appellants – Impugned order, set aside – Appeal allowed. [*K. Aslam v. Cooperative Milk Producers Union*]

(J. NISHA BANU, J.)
2024-IV-LLJ-566 (Mad)
LNIND 2024 MAD 5953