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ALL INDIA BANK EMPLOYEES' ASSOCIATION

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COMPASSIONATE APPOINTMENT

Applicability of Circular – Respondent-employee appeal before Division Bench of High Court allowed directing Appellants State to consider his case for appointment on compassionate ground relying upon subsequent policy-circular, hence this appeal – Whether, Respondent entitled for appointment on compassionate ground on basis of subsequent circular-policy – *Held*, as per policy-circular prevalent at time of death of deceased employee, working on work charge, his dependents/heirs were not entitled to appointment on compassionate ground and were entitled to certain sum as compensatory amount – Policy came to be amended *vide* circular, under which even in case of death of work charge employee, his heirs/dependents would be entitled to appointment on compassionate ground – Relying upon subsequent circular-policy, Division Bench of High Court directed Appellants to consider Respondent case for appointment on compassionate ground – For appointment on compassionate ground, policy prevalent at time of death of deceased employee only required to be considered and not subsequent policy – Once judgment passed by Division bench under which Respondent appointed was quashed, necessary consequences should follow and appointment of Respondent could not be protected – Impugned judgment passed by Division Bench of High Court quashed by observing that Respondent should not be entitled for appointment on compassionate ground on basis of subsequent circular-policy – Appeal allowed. [*State of MP v. Ashish Awasthi*]

(M.R. SHAH, J.) 2022-I-LLJ-1 (SC)
LNIND 2021 SC 470

CROSS-EXAMINATION OF WITNESS

Permission to Withdraw Affidavit – Payment of Gratuity Act, 1972 – Petitioner challenged impugned order passed by Authority under Act, by which witness of Claimant-Respondent, who was under cross-examination, permitted to withdraw his affidavit of evidence, and file fresh affidavit of evidence, hence this petition – Whether, impugned order passed by below authority liable to be set aside – *Held*, once affidavit filed and witness was being cross-examined on same, Court or authority concerned could not permit witness to withdraw his affidavit of evidence in this manner – If in response to any questions put in cross-examination in respect of any documents, witness wishes to produce any documents, witness could say so when cross-examination commences, on next date of hearing – Original affidavit by way of evidence, on which cross-examination was taking place, should be brought back on record – Part cross-examination already recorded should also be considered as being part of record – Cross-examination should continue on basis of old affidavit itself – Authority should consider said statement of witness and if documents were relevant in context of question asked, said documents should be taken on record, as per law – Cross-examination had not concluded, and various questions relating to various records have in fact been put to workman – In view of same, directions should be complied with, in accordance with law – Impugned order passed by below authority liable to be set aside – Petition disposed of. [*Sharat Dass v. Rameshwar Singh*]

(PRATHIBA M. SINGH, J.)
2022-I-LLJ-50 (Del) LNIND 2021 DEL 1987

DISMISSAL FROM SERVICE

Misconduct – Petitioner's service was dismissed for misconducts by Disciplinary Authority – Single Judge found order of dismissal disproportionate – Revision preferred by Petitioner before Respondent no. 1 was dismissed holding that order of dismissal passed by Appellant was maintainable – Whether, Single Judge justified in concluding that order of dismissal passed against Petitioner was disproportionate – *Held*, general public made victims for misconducts committed by staff – Honesty expected from employee – Reasoning given by Single Judge not acceptable – Charges framed against Petitioner proved in full-fledged enquiry – Unless punishment imposed found shockingly disproportionate Appellate Authority could not interfere with it – Impugned order of Single Judge set aside – Appeal allowed. [*SO, Manakkudi PACS v. Joint Reg. of Co-op. Societies*]

(S. VAIDYANATHAN, J.)
2022-I-LLJ-195 (Mad) LNIND 2021 MAD 3572

EMPLOYMENT

Compassionate Appointment – Petitioner sought for setting aside impugned letter issued by Respondent 2 rejecting application of Petitioner for appointment on compassionate ground, and issue him suitable appointment order by considering educational qualifications, hence this petition – Whether, impugned letter issued by Zilla Parishad denying Petitioner's application for appointment on compassionate ground liable to be quashed – *Held*, clause 7A of annexure to Government Resolution, which squarely applicable to Petitioner – Said clause mandates establishment officer of Zilla Parishad to apprise family of their right to have one eligible adult person to seek compassionate appointment – Clause 7A further requires that necessary papers would also have to be got filed in by establishment officer from family member who was eligible to be appointed – This has not been done by Zilla Parishad – Passage of time from death of father of petitioner, bereaved family unable to generate earning and sustain itself – Petitioner approached when he was 20 years of age and was about 24 years of age today – Considering Petitioner's educational qualifications, he could be appointed by Zilla Parishad as Junior Engineer – Impugned letter issued by Zilla Parishad denying Petitioner's application for appointment on compassionate ground liable to be quashed – Respondent 2 directed to enlist Petitioner in list of eligible candidates for compassionate appointment and his seniority for being appointed as Junior Engineer whenever post was vacant – Petition allowed. [*Gopal v. State of Maharashtra*]

(RAVINDRA V. GHUGE, J.)
2022-I-LLJ-37 (Bom) LNIND 2021 AUG 133

Quashing of Order of Termination – Petitioner-legal heir of deceased employee sought for directing Respondent 1 to 3 to reimburse medical bills claimed and to pay interest @ 18% p.a. on amount of backwages, arrears of salary and amount of reimbursement of medical bills for delayed payment – Employer company sought for quashing impugned judgment passed by Tribunal quashing orders of termination of employee, hence these petitions – Whether, impugned order passed by Appellate Authority quashing orders of termination of employee, justified – *Held*, employee suffered locomotor disability, which was temporary and to extent of 65% in relation to part of his body on right side – When company terminated employee, there were documents available indicating that he could have been accommodated on light work – Though company had before it certificate of Neuro Science Institute indicating fitness of employee for lighter job, remark of Civil Surgeon Unfit for Technician Post, was relied upon on for terminating service of employee – Employee was only 44 years of age when he suffered paralytic attack, and died being distraught and frustrated – Company had unnecessarily terminated employee and such termination cannot be justified – Appellate Authority arrived at right conclusion and justified in quashing orders of termination of employee – Employer Company directed to comply with directions set out in impugned judgment – Petition filed by company dismissed – Petition filed by deceased employee allowed. [*Ramesh Limbraj Gholve v. State of Maharashtra*]

(RAVINDRA V. GHUGE, J.)
2022-I-LLJ-218 (Bom) LNIND 2021 AUG 166

Reinstatement – Respondent-employee petition before Single Judge allowed directing Appellant to reinstate him into service as fresh conductor, subject to medical fitness, without continuity of service, without back wages and other attendant benefits hence this appeal – Whether, order passed by Single Judge liable to be set aside – *Held*, enquiry was held as per statutory provisions and Labour Court did not find any defect in enquiry and also declined to interfere with order of punishment while delivering award – Single Judge by observing that punishment disproportionately shocking to guilt of delinquent had set aside order of removal – For embezzlement dismissal was justified punishment – While setting aside order of removal, Single Judge not assigned any cogent reasons reversing findings of fact recorded by domestic Tribunal – Once enquiry ordered, entire evidence scanned by Labour Court and as it was case of misappropriation, punishment could not have been interfered with on the ground that it was disproportionate to guilt of *delinquent*-employee – If employer opted not to assail order in the particular case that could not be granted as a relief to Respondent-employee – Once employee held to be guilty of misappropriation, punishment of removal awarded could not have been interfered in manner and method – Order passed by Single set aside and award passed by Labour Court deserves to be upheld – Appeal allowed. [*Apsrtc Now Tsrtc v. D. Yadaiah*]

(SATISH CHANDRA SHARMA, J.)
2022-I-LLJ-235 (TS) LNIND 2021 TS 512

GRATUITY

Recovery of Amount – Payment of Gratuity Act, 1972, Section 8 – West Bengal payment of gratuity Rules 1973, Rule 15 – Gratuity case initiated by Controlling Authority – Certificate Officer (CO) recorded his dissatisfaction on ground of not following Rules under Act – Whether, Certificate Officer justified rejecting requisition – *Held*, Controlling Authority instead of issuing certificate issued requisition for certificate – Duty of Collector was to recover amount with compound interest from employer and to pay to person entitled – Advantage to Jute Mill given by CO so that payment of gratuity could be avoided – CO was well aware about Rule 15 of Rules, 1973 – While rejecting requisition CO did not follow principles of natural justice – Clear understanding of CO that a certificate was issued by Controlling and not requisition for it – CO made false statement and recorded false representation – Impugned order set aside – CO directed to execute order of payment of gratuity according to Section 8 of Act – Petition allowed. [*Toyeb Ali Midday v. State of West Bengal*]

(ABHIJIT GANGOPADHYAY, J.)
2022-I-LLJ-103 (Cal) LNIND 2021 CAL 657

PAYMENT OF GRATUITY

Forfeiture – Payment of Gratuity Act 1972, Section 4(6)(a)(b) – Petitioner's appeal before Appellate Authority dismissed confirming Controlling Authority's order directing Petitioner to make payment of gratuity to Respondent-employee, hence this petition – Whether, impugned order passed by Controlling Authority directing Petitioner to make payment of gratuity to Respondent, and as confirmed by appellate authority passed in accordance with law – *Held*, provisions of Section 4(6)(a)(b) of Act target wrongful act of employee which would cause damage of property belonging to employer or services of employee terminated for his riotous or disorderly conduct, if committed during course of employment – Such acts of employee in no manner could be compared to an allegation that employee had illegally obtained an employment, which would be subjective and far different from category of acts which are set out in Section 4(6)(a)(b) of Act – To remedy situation that employment obtained illegally, it always incumbent for employer to conduct lawful enquiry, which happened belatedly after Respondent rendered 29 years of service – Such termination cannot be ground for forfeiture of gratuity to which employee would be entitled for services rendered by him – None of the circumstances as falling within purview of clauses (a) and (b) exists in case, which could authorize Petitioner to forfeit gratuity amount payable to Respondent – Impugned order passed by Controlling Authority directing Petitioner to make payment of gratuity to Respondent, and as confirmed by appellate authority passed in accordance with law – Petition dismissed. [*Air India Ltd v. Dharman K. Patil*]

(G.S. KULKARNI, J.)
2022-I-LLJ-228 (Bom) LNIND 2021 BOM 524

PRODUCTION OF DOCUMENTS

Remanding of Matter – Employees State Insurance Act, Section 45(a) – Respondent's petition before labour Court to set aside order of Deputy Director under Section 45(a) of Act allowed and matter remanded back to Labour Commissioner for fresh disposal hence this appeal – Whether, order of Labour Court remanding matter back to Labour Commissioner for fresh disposal liable to be set aside – *Held*, production of documents from specified year were necessity to prove functional integrity – Appellant had not chosen to examine any witness or to mark any documents – Without supporting documents, number of employees engaged by Respondent and other units could not be decided – No documents on side of Appellant to substantiate order under Section 45-A of Act – No opportunity was given to Respondent to put forth his case – No document filed and no witness examined on side of Appellant to prove that sufficient opportunity was given to Respondent – Both questions raised by Appellant were questions of fact and not questions of law – Alleged inspection conducted in specified year, and default period was before said specified period – No use in remanding matter to Appellant for fresh disposal, after lapse of long years – Order of Labour Court remanding matter back to Labour Commissioner for fresh disposal liable to be set aside – Appeal dismissed. [*ESIC (SRO) v. A. Azeema*]

(R. THARANI, J.)
2022-ILLJ-42 (Mad)
LNIND 2021 BMM 1399

QUASHING OF TERMINATION ORDER

Suppression of Material Fact – Probation of Offenders Act 1958, Sections 3 and 12 – Division Bench and Single Judge set aside order of termination and directed Appellant-employer to reinstate Respondent-employee with all consequential benefits, hence these appeals – Whether, impugned judgments passed by Division Bench and Single Judge quashing order of termination liable to be set aside – *Held*, though Respondent already convicted by competent Court and was given benefit under Section 3 of Act only, he did not disclose his conviction – Respondent filed false declaration that neither any criminal case pending against him nor he has been convicted by any Court of law and relying upon such declaration Appellants gave him appointment – Only on police verification-receipt of antecedent's report from Superintendent of police, Appellants came to know about conviction of Respondent – Appellants were justified in terminating services of Respondent – Therefore, with view to get out of conviction and benefit of Section 3 of Act only and having realized that his conviction may come in his way, Respondent preferred appeal after period of two years and obtained benefit of Section 12 of Act – Even in case of subsequent acquittal, employee once made false declaration or suppressed material fact of pending criminal case should not be entitled to appointment as matter of right – Impugned judgments passed by both Division Bench and Single Judge quashing order of termination liable to be set aside and order of termination stands restored – Appeals allowed. [*RVPN Ltd. v. Anil Kanwariya*]

(M.R. SHAH, J.)
2022-I-LLJ-114 (SC)
LNIND 2021 SC 313

REGULARIZATION OF SERVICE

Grant of Service and Monetory Benefits – Petitioner sought for directing Respondent to regularize his service from date of his initial appointment in post of Senior Technical Assistant along with all consequential service and monetory benefits, hence this petition – Whether, Petitioner entitled to be regularized in service with effect from date of original appointment – *Held*, as service rules were not frame till specified year, Petitioner's service condition cannot be defined with reference to service rules – Petitioner's entitlement to get service benefit from specified period could not be disregarded by treating him as a person, whose appointment was illegal – When Petitioner applied for regularization, he was holding permanent post, which was sanctioned – Decision was taken to regularize service of Petitioner by the Special

Committee for said purpose – Denial of regularization of Petitioner's service ignoring his engagement over period of 14 years was unlawful and arbitrary – Respondent directed to regularize service of Petitioner with effect from specified date, when Respondent informed him about their inability to regularize service due to ban imposed by University Grant Commission – Petitioner entitled to all other service and monetary benefits – Petition disposed of [*B.Devaraju v. Gandhigram Deemed University*]

(S.S. SUNDAR, J.)
2022-I-LLJ-166 (Mad)
LNINDORD 2021 BMM 407

Seniority – Petitioner-employee sought for directing Respondents, to regularize his services in post of Junior Assistant from date of his appointment and accord him all consequential benefits of revision of salary and pension and direction for pay arrears, hence these petitions – Whether, Petitioner's service in post of Junior Assistant could be regularized from date of his appointment and he is entitled for all consequential benefits – *Held*, Petitioners have completed their Secondary School Leaving Certificate (SSLC) courses and possess necessary qualification for posts in which they had been placed, that had been duly sanctioned – Bye-Law was not notified, and not in force at the time when sanction accorded by Corporation and remained in draft form for several years – Reliance upon bye-law merely to negate appointments of Petitioners as Junior Assistants, even prior to its passing, could not be countenanced – Phrase 'according to rule' was held to mean compliance with all conditions as set out under applicable rules – It was only if *ad-hoc* employees appointed satisfied this condition that their appointments could be regularized, subject to employee having continued in uninterrupted service thereafter – If said conditions were satisfied, then period of officiating service was to be counted in fixation of seniority – Petitioners possess SSLC qualification as on date of *ad-hoc* appointment and thus in compliance with requirements at relevant point in time and for this reason that Corporation had sought subsequent ratification of their appointments from State – Procedure for appointment was adhered to and Petitioner's periods of service were continuous and uninterrupted – Petitions allowed. [*T.S. Dhanaraj v. State of Tamil Nadu*]

(DR. ANITA SUMANTH, J.)
2022-I-LLJ-205 (Mad)
LNINDORD 2021 MAD 1307

REINSTATEMENT

Consideration of Enquiry Report – Petitioner sought for quashing of award passed by Labour Court directing reinstatement of Workman, with continuity of service, and also seeks remand of matter back to Labour Court to decide afresh, hence this petition – Whether, domestic enquiry report conducted by enquiry officer appointed by Competent Authority of Management ought to be believed, or Court have to go by award of Labour Court itself – *Held*, workman working as Agro-Representative (a sub-set of Medical Representative) with Management alleged to have fabricated LTC claim, *in lieu* of his travel from specified places and back – Workman's own statement made it clear that his priority had been to clear his name from matter, which has been done by impugned order – Management having not filed any evidence or cross examined workman before Labour Court, workman could not again be relegated to fight another round of litigation against Management – Workman had not worked with Management since his termination, and not rendered any services for more than long years – Lump sum compensation should be paid to Workman by Management, instead of reinstatement and 100% back wages that awarded by Labour Court vide its impugned Award – In addition, litigation costs awarded in favour of Workman, to be paid by Management – Petition disposed of. [*Hindustan Antibiotics Ltd v. B.N. Singh*]

(PRATHIBA M. SINGH, J.)
2022-I-LLJ-53 (Del)
LNIND 2021 DEL 1998

REINSTATEMENT WITH CONTINUITY OF SERVICE

Right to Maternity Protection – Maternity Benefit Act, 1961 – Tamil Nadu Government Fundamental Rules – Rule 18(1) – Petitioner sought for quashing impugned order of termination issued by Respondent 1 District Collector, and direct him to reinstate him as Anganwadi worker with all service and attendant benefits, hence this petition – Whether, impugned termination order set aside, and Petitioner entitled to reinstatement with continuity of service – *Held*, 12 weeks period could not be taken into account while calculating 6 months period stated in G.O – After deducting 3 months period, Petitioner taken leave only 4 months 11 days and had not exceeded 6 months period stated in said G.O – Petitioner was not granted any opportunity before imposing major punishment of termination of service – Counter of Respondents was silent on allegation of granting opportunity, which means no opportunity was granted before imposing major punishment - Petitioner had produced medical certificate – Even if leave was beyond 6 months, then on production of medical certificate Petitioner entitled to relief under Rule 18(1) of Rules – Right to maternity protection could not be infringed – Punishment of termination of service was excessive – Six months period ought to be calculated after deducting statutory period of 3 months and if so then Petitioner had taken 4 months 11 days leave, which was well within period prescribed under G.O. – Impugned termination order set aside, and Petitioner entitled to reinstatement with continuity of service, and 50% of monetary benefits – Petition allowed. [*K.R. Kanimozhi v. State of Tamil Nadu*]

(S. SRIMATHY, J.)
2022-I-LLJ-186 (Mad)
LNINDORD 2021 BMM 398

RETIRAL BENEFITS

Exclusion of Suspension Period – Petitioner challenged order whereby his request for correction and updating of his service records and allowing consequential retiral benefits including pension and medical facilities rejected, hence this petition – Whether, Petitioner entitled to retiral benefits including pension, medical benefits *etc.* on having taken voluntary retirement and period of suspension need to be excluded for the purpose of qualifying service – *Held*, decision of Respondent in not treating work-charged service put in by Petitioner as qualified service was not justified – Said service need to be treated as qualifying service and 240 days of service put in by Petitioner need to be added to his qualifying service of 18 years, 11 months and 3 days – If government servant under suspension pending inquiry exonerated, then same should be counted as qualifying service – Period of suspension of 257 days need to be counted for purpose of qualifying service – Case of extraordinary leave without any medical certificate, could not have been included for purpose of qualifying service for pension – Petitioner should not be entitled to any monetary benefits between specified years, but his pension should notionally be arrived at and actual monetary benefits should be given for three years preceding filing of writ petition – Past benefits should be paid within certain period – Petition disposed of. [*Avinash Sharma v. Tata Power Delhi Dist. Ltd*]

(V. KAMESWAR RAO, J.)
2022-I-LLJ-92 (Del)
LNIND 2021 DEL 2016

TERMINATION

Continuation of Contractual Workers – Petitioners-contractually employed Workmen, working with Respondent Hospital challenged illegal termination of their services, hence this petition – Whether, Petitioners could be recruited as contractual workers – *Held*, there were several gaps in recruitment of contractual workers and several reforms have been suggested – Steps taken by Hospital and further steps suggested by Committee, in order to maintain uniformity, transparency and consistency in recruitment of contractual workers – For selection of contractual firm through GeM, two separate and independent committees, *viz.,* Bid finalization committee and Bid evaluation committee comprising non-administrative faculty members would be constituted – Approval should be obtained even from Ministry for contract, after Bids were evaluated and finalized – Hospital administration should create awareness amongst outsourced workers about their dues and statutory deductions – Hospital administration

should ensure that abovementioned steps taken and monitored on regular basis – Continuation of contractual workers should always be in accordance with law – Present order should not be construed as giving any permanence to contractual employees – Petitions disposed of. [*AIGKU v. Union of India*]

(PRATHIBA M. SINGH, J.)
2022-I-LLJ-63 (Del) LNIND 2021 DEL 2450

TERMINATION FROM SERVICE

Principles of Natural Justice – Petitioners had been removed from services according to order of District Magistrate – Whether, impugned order violated Principles of Natural Justice as no show cause notice issued to Petitioners prior to termination – *Held*, appointment of Petitioners was contractual – General principles of law and Principles of Natural Justice required to be followed prior to removing Petitioners from services – Principles of Natural Justice required to be followed even in case of contractual appointment – In case of termination of contractual appointment writ Court must examine validity of termination order – No show cause notice was ever issued to Petitioners prior to passing of impugned order of removal – Petitioners removed from services on account of procedural irregularity committed several years back without fault on their part – Impugned order vitiated in absence of opportunity to put defence – Impugned order quashed – Petition allowed. [*Bipin Kumar Singh v. State of Bihar*]

(MOHIT KUMAR SHAH, J.)
2022-I-LLJ-200 (Pat)LNIND 2021 PAT 2928

FEBRUARY

CANCELLATION OF TRANSFER ORDER

Beneficiary of Scheme – Constitution of India, Articles 14 and 16 – Transfer orders issued in favour of Petitioner-employee by virtue of amendment in scheme – Single Judge set-aside amendment in scheme – Whether, Petitioners could be accommodated at urban centers as per their choice indicated in transfer scheme – *Held*, Petitioners had no vested right to be posted at of their choice – Scheme framed by employer to mitigate hardship of employees long posted at remote areas – Amendment must not offend Articles 14 and 16 of Constitution – Amendment in impugned scheme could not be retrospective in nature – Action of employer was not unreasonable – Entire fresh transfer list could not be cancelled without hearing beneficiaries – Impugned order could be reversed being amendment issued by employer not contrary to law – After accommodating Petitioner's seniors, Petitioner could be accommodated – Appeal allowed. [*RVUNL v. Bajrang Lal Saini*]

(AKIL KURESHI, C.J. AND REKHA BORANA, J.)
2022-I-LLJ-272 (Raj) LNIND 2021 RAJ 1

COMPASSIONATE APPOINTMENT

Rejection of Claim – Petitioner sought compassionate appointment upon death of her husband – Application rejected by Respondent no. 3 – Whether, Petitioner entitled to get compassionate appointment upon death of her husband – *Held*, attainment of status of permanent employee by work-charged employee on account of having completed 15 years of service not give him status of regular employee – Service of Petitioner's husband could not be treated as regularized – Clear from Government order, persons whose services not regularized not entitled for compassionate ground appointment – Object of giving compassionate ground appointment to meet out sudden crisis – Deceased family was able to survive for about 16 years after demise of employee – Object of giving of compassionate ground appointment would get defeated if Respondents be directed to consider claim – Petition dismissed. [*K. Muniammal v. Govt. of Tamil Nadu*]

(D.KRISHNAKUMAR, J.)
2022-I-LLJ-261 (Mad)
LNINDORD 2021 MAD 1186

CONTRACTUAL LABOURER

Reinstatement – Petitioner-workmen alleged that their services were illegally terminated by Respondent Authorities, under pretext of changing contractor – Petitioner sought for reinstatement in service as also for direction to Respondent Authorities to give preference to them over fresh contractual employees, hence this petition – Whether, Petitioner entitled for reinstatement in service – *Held*, ESIC intends to frame proper policy in respect of contractual workers and to put in place mechanism to exercise supervision over contractors who were supplying manpower for various ESIC establishments – ESIC should constitute committee in order to frame broad policy for all its establishments in respect of contractual workers – Said Committee should consist of at least two experts, two representatives from Workmen and two representatives from Contractors, as also other officials, as ESIC deems appropriate, in order to frame proposed policy – Proposed policy would take into account all requisite measures that need to be employed to ensure that interests of contractual workers was not adversely affected in any manner – Said committee should also look at terms and conditions that should be incorporated in agreements which would be entered into by ESIC with contractors – Earlier contractor's term was stated to be expiring, ESIC should consider accommodating Petitioners who have been serving ESIC for last 10 to 15 years, in case new contractor was being engaged or if earlier contractors was being granted extension – Directions Issued. [*Sh. Hansraj v. ESI Corporation*]

(PRATHIB M. SINGH, J.)
2022-I-LLJ-473 (Del)
LNIND 2022 DEL 34

DISMISSAL

Enquiry – Petitioner sought for quashing impugned order of Respondent and directing to reinstate him with arrears of salary and monetary benefits together with interest at 12% from the date of dismissal from service, hence this petition – Whether, punishment of dismissal from service liable to be set aside – *Held*, District Manager had not issued suspension order in person but sent suspension order through post to Petitioner – District Manager conducted audit, by checking stocks and cash and found only certain sum as short fall, in such circumstances charge that Petitioner had mis-appropriated certain sum was false – Entire investigation report pointing finger at District Manager and his vindictive attitude – Due to bank strike amount could not be deposited and due to audit money was handed over to District Manager – When audit was carried out, if Petitioner had not handed over money, then same would amount to misappropriation, therefore handing over of money to District Manager at time of audit was legally valid – Specified person who was assigned to work in said shop for one day – Statement of Petitioner that register was taken with permission of District Manager, after taking Xerox and same was handed over was acceptable – Enquiry report and investigation report, when two reports were available then one which was favoring *delinquent* might be taken into account – Punishment of dismissal from service set aside directing Respondent to grant continuity of service along with monetary benefits with 6% interest from the date of dismissal from service – Petition allowed. [*R. Shanmugam v. Deputy Collector*]

(S. SRIMATHY, J.)
2022-I-LLJ-403 (Mad)
LNINDORD 2021 BMM 483

Power of Judicial Review – Industrial Disputes Act, 1947, Section 11(A) – Appellant-employee challenged order passed in petition whereby award of Labour Court was interfered by Single Judge and punishment of simple discharge was converted into one of dismissal from service, hence this appeal – Whether, order of Single Judge liable to be set aside, and enquiry could be preceded before imposing punishment – *Held*, no enquiry preceded before imposing punishment with regard to past misconduct, and past punishments cannot be treated as past record at all – Even though charges have been proved in present misconduct, Labour Court had got ample powers to interfere under Section 11(A) of Act – Single Judge, while interfering with order of Labour Court, had applied principles of *res ipso loquitur* to draw adverse inference against driver for his rash and negligence driving – On this ground Single Judge had exceeded power of

judicial review over award of Labour Court – Order of Single Judge set set aside and award of Labour Court restored – Legal heirs of deceased employee entitled to all monetary benefits due to employee from date on which he entered into service till date of death – Employee would not be entitled to back wages – Appeal allowed. [*G. Gomathi v. Management, TNSTCL*]

(S. VAIDYANATHAN, J. AND G. JAYACHANDRAN, J.)
2022-I-LLJ-430 (Mad)
LNIND 2021 BMM 1693

EMPLOYMENT

Compassionate Appointment – Appellant-employee challenged order passed by Single Judge and Respondent rejecting his claim for compassionate appointment to post of temporary employee (Artisan)(Electrician Trade) on ground that he was suffering from deformity of colour blindness, hence this appeal – Whether, impugned orders passed by Single Judge and Respondent deserve to be set aside – *Held*, doctor had given report after subjecting Appellant to various tests that he was fit for job in question – On account of alleged colour blindness, Appellant was not being appointed as regular employee in Respondent – Repeated requests made by Appellant to get him examined from independent body were turned down and same doctors of Respondent, who have done medical examination earlier, did second medical examination upholding their earlier verdict – Once request was made by Appellant to get him examined from some other independent organization, same should have been accepted by Respondent – It was only after intervention of Court, Appellant was subjected to examination by Eye Institute and had given report that he suffers from mild colour blindness and it would not affect his normal routine professional activities – Impugned orders passed by Single Judge and Respondent deserve to be set aside directing Respondents to appoint Appellant on post of Artisan (Electrical Trade) – Appeal allowed. [*N. Rajendra Kumar v. BHEL*]

(SATISH CHANDRA SHARMA, CJ.)
2022-I-LLJ-444 (TS)
LNIND 2021 TS 599

Regularization of Service – Constitution of India, 1950, Article 14 – Appellant-workman petition before writ Court, praying to reinstate him into service and regularize his service on regular basis as Toll, allowed – Respondent 3 petition before Single Judge allowed setting aside order of writ Court, hence this appeal – Whether, impugned order passed by Single Judge liable to be set aside – *Held*, educational qualification for post of Junior Assistant was SSLC, whereas, Appellant had possessed +2 (HSC) qualification – Appellant also passed Account Test for SAS Part-I conducted by Public Service Commission – Despite these educational qualifications, Appellant was not considered for appointment as Junior Assistant by Respondent 3 – Appointment order issued by Respondent 3 Municipality, appointing Appellant as Watchman was in violation of Article 14 of Constitution and it also arbitrary, discriminatory and against principles of natural justice – Respondent 3 vide proceeding, appointment 11 NMRs temporarily on basis of their educational qualification but Appellant was not appointed to post of Junior Assistant though he had necessary qualification for said post at relevant point of time – Similarly placed persons were appointed as Junior Assistants, but, same benefit was rejected to Appellant, which shows that it was clear case of discrimination shown by Respondent 3 and no uniformity in appointments – As far as Appellant was concerned, Respondent 3 did not follow Government order scrupulously – Impugned order passed by Single Judge liable to be set aside – Appeal allowed. [*T. Mariappan v. Sec., Municipal Admin.*]

(J. SATHYA NARAYANA PRASAD, J.)
2022-I-LLJ-433 (Mad)
LNIND 2021 MAD 3846

Regularization of Service – Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013 – Petitioner sought for directing Respondents to regularize services of members of his association and till such regularization they allowed to continue as PTGI against vacant post contractual ATO, hence these petitions – Whether, benefit of regularization could be extended to Petitioners – *Held*, members of Petitioner association have been engaged on hourly basis to take periods of certain classes and

their service status positioned inferior to daily wagers – In pursuance of order passed by Tribunal, Government have already taken decision regarding proposal for regularization of part-time Guest Instructors, and granted them age relaxation for participating in recruitment process – Thereby, claim of Petitioners for regularization of services contrary to policy decision of Government – Challenge made to advertisement for filling up of post of ATOs on contractual basis could not sustain in eye of law – Members of Petitioner association ought to have participated in recruitment process taking advantage of age relaxation, as granted by State Government, but could not claim for regularization of services – Benefit of regularization, as claimed pursuant to provisions of Rules, could not be extended – Nature of work rendered by members of Petitioner association, their recruitment process and other relevant factors, which did not satisfy requirement of law in matter of regularization of services – Petitions dismissed. [*All Odisha Govt. I.T.I. v. DGET, Govt of India*]

(B.R. SARANGI, J.)
2022-I-LLJ-300 (Ori)
LNIND 2021 ORI 3

Reinstatement – Appellant's employer appeal before High Court dismissed confirming order passed by Tribunal directing that Respondent-employee be reinstated in service and ordered 50% of salary to be paid for period when he was not in employment, hence this appeal – Whether, impugned orders of High Court and Tribunal liable to be set aside – *Held*, representative of employer has not been cross-examined on question that he has not inspected the bus – When representative of employer tried to record statements of passengers, conductor misbehaved with him and used unruly words – Inspector was unable to record names and addresses of passengers cannot be said to be unjustified - Inspector found that 17 passengers were not issued tickets – Tribunal or High Court could not reject evidence led by employer in respect of misconduct of workman before adjudicator – Non lodging of FIR cannot be a circumstance against witness examined by employee – Initiation of criminal proceedings against employee or not initiating proceedings had no bearing to prove misconduct in departmental proceedings – Order of removal from service could not be said to be unfair which would warrant interference at hands of Tribunal and High Court – Reasons recorded by Tribunal *perverse* and not supported by any evidence – Tribunal had misapplied basic principles of law and High Court wrongly confirmed order – Impugned orders of High Court and of Tribunal liable to be set aside – Order of punishment restored – Appeal allowed. [*UPSRTC v. Gajadhar Nath*]

(HEMANT GUPTA, J.)
2022-I-LLJ-254 (SC) LNIND 2021 SC 526

Reinstatement with Back Wages – Industrial Disputes Act, 1947, Section 2(A) – Respondent 2-employee's industrial dispute before Respondent 1 under Section 2(A) of Act allowed granting relief of reinstatement with back wages, hence this petition – Whether, impugned order passed by Labour Court reinstating Respondent 2 with back wages liable to be set aside – *Held*, claim of Petitioner that he was running transport in specified name and style and same was rejected by Labour Court – Explanation stated by Petitioner was acceptable, if cause title was different, then writ petition would not be numbered – Respondent 2 was working with Petitioner that too occasionally and had been given daily wages – Labour Court had erred in holding that Petitioner was running Transport and was running office at specified place – Respondent 2 with malicious attitude issued notice to wrong address therefore, explanation of Petitioner was acceptable – License was with erstwhile owner and same was not handed over while selling bus – For all these years Respondent 2 had managed without original was unbelievable – Any license ought to be renewed periodically and claim of Respondent 2 that it had not been renewed for more than 9 years was unbelievable – Respondent 2 was not entitled to reinstatement and also not entitled to consequential relief of continuity of service and back wages – Impugned order passed by Labour Court reinstating Respondent 2 with back wages liable to be set aside – Petition allowed. [*N. Ramkumar v. Presiding Officer, L.C.*]

(S. SRIMATHY, J.)
2022-I-LLJ-451 (Mad) LNINDORD 2021 BMM 524

Reinstatement with all consequential benefits – Petitioner-employee sought for quashing order of Respondents rejecting his prayer for reinstatement with all consequential benefits, hence this petition – Whether, Petitioner entitled for reinstatement with all consequential benefits – *Held*, main charges against Petitioner were integrity, and devotion towards duty, which amounts to gross-misconduct and same could not be proved in criminal case and it could only be proved in departmental proceedings – Because of grave misconduct arising due to doubtful integrity and lack in devotion towards duty by Petitioner, order of dismissal rightly issued which warrants no interference, even if Petitioner had been given benefits of doubt acquitting him in criminal case – Where Disciplinary Authority accepts findings of Enquiry Officer and passes order, no detailed reasons were required to be recorded on order imposing punishment – Charges against Petitioner based on evidences brought up by witnesses, they were present at place of occurrence and were witnesses of incident such as recovery and seizure memorandum – Petition dismissed. [*Ashok Kumar Nonia v. Bharat Coking Coal Ltd*]

(DR. S.N. PATHAK, J.)
2022-I-LLJ-358 (Jhar) LNIND 2021 JHAR 3

Reinstatement without Backwages – Respondent 1-employee petition before Single Judge partly allowed directing Respondent 2 to reinstate him in service without backwages, hence these appeals – Whether, order passed by Single Judge liable to be set aside – *Held*, alleged appointment order of Respondent 1, itself found to be fabricated document and alleged meeting of Panchayat and resolution passed for appointing him as Panchayat Assistant was false proceeding and there was no meeting conducted on specified date – Signatures of members of panchayat were forged signatures – Other records also did not show that even for period of four months of alleged employment of Respondent 1, he had discharged any services, however, consolidated pay of certain sum had been paid to him – All these manipulation of records had been done by the then President of Panchayat – Detailed report submitted by District Collector clearly indicates that in order to secure public employment, Respondent 1 in connivance with the then President of Panchayat had manipulated records and had produced fabricated appointment order before Court and also partially succeeded – Salary of certain sum wrongly paid by Appellant society to Respondent 1, had got to be recovered from him and former President and both were jointly or severely liable to return said amount to Appellant society – Order passed by Single Judge liable to be set aside – Appeals allowed. [*President, Kattakamanpatty Panchayat v. R. Kamatchi*]

(S. VAIDYANATHAN, J. AND G. JAYACHANDRAN, J.)
2022-I-LLJ-448 (Mad) LNIND 2021 BMM 1765

Transfer – Petitioner sought for quashing award of Labour Court transferring workmen, as illegal, arbitrary, and direct Respondent to reinstate said workmen with full back-wages, continuity of service and all other attendant benefits, hence this petition – Whether, impugned award of Labour Court liable to be set aside – *Held*, Labour Court committed error in holding that transfers were necessitated by exigency of service, and therefore, there was no victimization at all – No valid explanation by Management as to how they can pick and choose few workmen to transfer them to faraway place – On behalf of Management, nothing had been demonstrated as to necessity or administrative requirement for transferring few workmen alone to faraway place – In absence of mandatory notice to workmen, impugned transfer could not be countenanced both in law and on facts – Sweeping statement made by Labour Court that there was no substance to hold that transfer was act of victimization and punishment amounting to Unfair Labour Practice, was not borne out by any records – Labour Court had considered entire case in lopsided perspective in favour of Respondent Management without objective analysis of back-drop in which workmen have been shunted out to faraway place – Impugned award of Labour Court set aside directing Respondent Management to reinstate said workmen with full back-wages, continuity of service and all other attendant benefits – Petition allowed. [*Puthiya Jananayaka Thozhilalar v. Power and Abirami Soap*]

(V. PARTHIBAN, J.)
2022-I-LLJ-376 (Mad) LNINDORD 2021 MAD 1236

Unfair Labour Practice – Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971, Section 28(1) – Electricity (Supply) Act 1948, Section 79(c) – Maharashtra State Electricity Board Classification and Recruitment Regulations, 1961 – Petitioner Board challenged judgment of industrial Court allowing complaints filed by Respondents under Section 28(1) of Act, 1971 declaring that Respondent had engaged in unfair labour practice covered under Item No. 6 of schedule IV of Act, 1971 by not conferring permanency benefits to complainants, hence these petitions – Whether, impugned judgment of industrial court liable to be quashed – *Held*, no evidence to demonstrate that Petitioner had created those two posts but abolished them with some ulterior motive to deny any conferment of permanency benefits to Respondents – It was only for some temporary period that attempt was made to create two permanent posts of telephone operators but no recruitment process was ever undertaken to fill in those two posts by following service regulations which applicable to Petitioner establishment service regulations framed under Section 79(c) of Act, 1948 and Regulations, 1961 – Petitioner was not engaged in unfair labour practice as defined under Item 6 of Schedule IV of Act, 1971 – Industrial Court erred in giving declaration regarding commission of unfair labour practice and directing Petitioner to consider case of Respondents for permanency when no such post was in existence – Impugned judgment of industrial Court liable to be quashed – Petitions allowed. [*MSEB v. Sudhir Kamalkar Ayachit*]

(MANGESH S. PATIL, J.)
2022-I-LLJ-465 (Bom) LNIND 2022 AUG 2

INDUSTRIAL DISPUTE

Trade Union – Industrial Dispute Act, 1947 – Section 2(k) – Whether, individual could conduct case on behalf of Union and Union raised any valid industrial dispute and specified company was employer of three employees – *Held*, dispute between individual workman and employer could not be industrial dispute as defined in Section 2(k) of Act unless it taken up by union of workmen or by considerable number of workmen – Individual could not conduct case on behalf of union – Petitioner and two others have not signed resolution and no worker under Sports Club have signed resolution – No valid industrial dispute under Section 2(k) of Act – Petitioner arrayed as work contractor – Said Petitioners were contract employees under somebody and specified company had engaged them through contractor. [*V. Chinnathambi v. Presiding Officer*]

(S. SRIMATHY, J.)
2022-I-LLJ-412 (Mad) LNINDORD 2021 BMM 482

MISCONDUCT

Termination – Industrial Disputes Act, 1947, Section 17(B) – Single Judge while allowing writ petition filed by Respondent Management set aside award passed by Tribunal in favour of Appellant-workman, hence this appeal – Whether, impugned order passed by Single Judge liable to be quashed – *Held*, Labour Court rightly arrived at conclusion that workman had discharged his obligation and there was no legally sustainable contest against it – On basis of this fact and evidence, Labour Court passed award granting relief to workman – Single Judge, while setting aside award recorded his submission that the real cause to terminate service of workman was some accident which was perceived to be misconduct on his part – When this was case, that could not have been done without affording opportunity of hearing – Management could not be permitted to blow hot and cold together when discontinuance of service was termination for misconduct and at same time, according to Management, workman had not completed 240 days and he was discharged simplicitor – No legally sustainable reason remains on record, which may unsettle award passed by Labour Court – Though litigant have right to approach higher forum, Management dragged workman right up to Supreme Court even for his wages which he was statutorily entitled to under Section 17(B) of Act – Impugned order passed by Single Judge quashed and that of passed by Labour Court restored – Appeal allowed. [*Bharathidasan v. TNSTCL*]

(PARESH UPADHYAY, J.)
2022-I-LLJ-440 (MAD)
LNIND 2021 MAD 3629

PUNISHMENT OF STOPPAGE OF INCREMENT

Non-disclosure of Fact – Tamil Nadu Civil Service (Discipline and Appeal Rules) Rules – Disciplinary authority, based on enquiry report, imposed punishment of stoppage of increment for period of three months with cumulative effect against Petitioner-employee – Petitioner's appeal and review application dismissed, hence this petition – Whether, impugned orders passed by disciplinary authority and appellate authority liable to be quashed – *Held*, punishment imposed on charge of non-disclosure of fact that Petitioner was arrested and remanded in custody in criminal case filed against him – Said criminal case ended in acquittal – Non disclosure of arrest and remand in criminal case was violation of Rules – Petitioner ought to have informed same to authorities concerned – To that extent, no reason to interfere with impugned order passed by Respondent – Punishment imposed against Petitioner as, "Stoppage of increment for period of three months without cumulative effect" stands modified – Impugned order modified to certain extent – Petition partly allowed. [*K. Muthulingam v. Government of Tamilnadu*]

(D. KRISHNAKUMAR, J.)
2022-I-LLJ-269 (Mad)
LNINDORD 2021 MAD 144

REGULARIZATION OF SERVICE

Benefit of Pay Scale – Bihar Co-operative Societies Act, 1935, Section 44 AV – Order of regularization issued in favour of Petitioner by Respondent – Petitioner sought extended benefit of pay scale attached to his post – Whether, petitioner's regularization to post of Office Assistant (Multipurpose) was with effect from date of regularization – *Held*, Section 44 AV of Act not amended properly – Recruitment in Co-operative Society and Bank ought to be rooted through I.B.P.S – Petitioner entitled to pay scale attached to post of Office Assistant (Multipurpose) with effect from date of regularization – Respondent directed to calculate arrears of pay of Petitioner from date of regularization – Petition allowed. [*Rajesh Kumar v. State of Bihar*]

(P.B. BAJANTHRI, J.)
2022-I-LLJ-251 (Pat)
LNIND 2021 PAT 2848

Equal Pay for Equal Work – Odisha Group-"C" and Group-"D" Posts (Contractual Appointment) Rules, 2013 – Petitioners-employee, working as Data Entry Operators, seek for direction to issue formal order of regularization in scale of specified pay + GP with usual allowances admissible as per G.A., with all consequential service and monetary benefits, hence these petitions – Whether, outsourced employees entitled to regularization in their service and entitled to equal wage based on principle of equal pay for equal work – *Held*, Petitioners have been engaged with due approval of government to discharge duties and responsibility assigned to them, which is purely governmental in nature, even though they engaged through outsourcing agency by entering into agreement – As per clause-8 of agreement, agency had to sponsor names for selection for their engagement – Thereby, Petitioners, having faced selection process, engaged as Data Entry Operators in Local Fund Audit Organization of Government under Finance Department – As Petitioners discharging duties and responsibilities for Government, though they have been paid through outsourcing agencies, they are entitled to get benefit of contractual appointment, as per resolution – Petitioners may be brought over to contractual establishment in view of Rules governing the field, since they stand at *par* with employees those who have been absorbed in CT and GST Department, pursuant to specified judgment – Such benefits should be extended to Petitioners as expeditiously as possible – Petitions allowed. [*Rashmi Rekha Dash v. State of Odisha*]

(B.R. SARANGI, J.)
2022-I-LLJ-275 (Ori)
LNIND 2021 ORI 2

REINSTATEMENT

Violation of Agreement – Petitioner sought for quashing order issued by District Programme Officer cancelling selection of Petitioner, and commanding Respondents to reinstate him on post on which he was working, hence this petition – Whether, order of termination set aside, and Petitioner entitled for reinstatement – *Held*, Petitioner was arrested and followed by termination order Respondent could not take shelter under clause VI of agreement that date of arrest and order of termination was much before seven days of continuous absence – Respondents have not made out case and there was violation of Clause VI mentioned in agreement before terminating Petitioner's service – Order of termination liable to be set aside, and Petitioner entitled for reinstatement – Respondent directed to proceed in accordance with law – Intervening period from date of termination, till final order to be passed should be determined – Petition allowed. [*Dhananjay Kumar Rakesh v. State of Bihar*]

(P.B. BAJANTHRI, J.)
2022-I-LLJ-477 (Pat)
LNIND 2022 PAT 96

REINSTATEMENT OF SERVICE WITHOUT CONTINUITY AND BACK WAGES

Exercise of Power – Industrial Disputes Act, 1947, Section 11-A – Labour Court by impugned order took lenient view, and in exercise of powers conferred under Section 11-A of Act, modified punishment imposed on Respondent 1-employee to that of reinstatement into service as fresh conductor without continuity and without back wages, hence this appeal – Whether, Labour Court was competent to modify order of punishment under Section 11-A of Act – *Held*, Section 11-A of Act empowers Tribunal to set aside order of discharge or dismissal and direct reinstatement of workman on such terms and conditions, if any, as it thinks fit – In exercise of powers conferred under Section 11-A of Act, Labour Court, by taking lenient view, had directed reinstatement of Respondent 1-employee as fresh appointee without back wages and without benefit of past service – Respondent 1 had also attained age of superannuation and Single Judge remanded matter back to Labour Court – As Labour Court was jurisdictionally competent to modify order of punishment under Section 11-A of Act, as no irregularity in award passed by it – Order passed by Single Judge remanding matter to Labour Court liable to be set aside – Appeal allowed. [*Depot Manager v. B. Narasaiah*]

(SATISH CHANDRA SHARMA, CJ.)
2022-I-LLJ-422 (TS)
LNIND 2021 TS 539

TERMINATION

Domestic Inquiry – Respondents-workmen had been terminated after proper internal inquiry held by Petitioner Management – Petitioner Management application for framing of additional issue in proceedings before Labour Court, and for deciding said issue as preliminary issue was partly allowed, hence these petitions – Whether, prayer to frame issue of inquiry as preliminary issue could be allowed – *Held*, normal procedure that ought to be adopted by Labour Courts was to first decide validity of domestic inquiry as preliminary issue – If said issue decided against Management, Management then to be afforded opportunity to lead evidence supporting termination of workmen, before Labour Court – Said issue no. 1A should now be adjudicated by Labour Court in first place and depending upon outcome of said issue, matter would proceed further before Labour Court, in accordance with law – Petitions disposed of. [*Securitrans India (P) Ltd v. Manoj Prasad*]

(PRATHIBA M. SINGH, J.)
2022-I-LLJ-425 (Del)
LNIND 2021 DEL 2465

BENEFITS

Continuity of Service – Petitioner sought for directing Respondent 1 to 3 to give benefit of Resolution, and to give difference of salary, retirement benefits like Pension, Gratuity and Leave encashment considering total service of more than 39 years continuous service with 12% interest, hence this petition – Whether, Petitioner entitled for benefit of Resolution, difference of salary and retirement benefits – *Held*, Labour Court *vide* award while examining Petitioner case and co-employee has directed Respondent authorities to reinstate him on his original post – No directions were issued with regard to continuity of service – Directions issued by Court in case of co-employee have become final and, Petitioner could not be denied benefits, which were conferred to co-employee – Constant view taken by Division Benches, on which reliance placed by Respondents that once Labour Court orders reinstatement, continuity to such employee could not be denied because it has failed to record expression continuity of service – Only difference was that co-employee, was still in service, and Petitioner has retired after rendering 39 years of service – Respondents directed to confer benefits flowing from Government Resolution with effect from Petitioner would be entitled, and to give difference of salary and pay arrears – Respondents also directed to grant retirement benefits like pension, gratuity and leave encashment to Petitioner – Petition allowed. [*Hamirbhai Meghabhai Gohil v. State of Gujarat*]

(A.S. SUPEHIA, J.)
2022-I-LLJ-614 (Guj)
LNIND 2022 GUJ 1

Full wages and Allowances – Insolvency and Bankruptcy Code, 2016, Section 53 – Petitioner sought for quashing award made by Industrial Tribunal holding that lay off of workmen was illegal and for period of lay off, they entitled to entire wages, allowances and benefits, hence this petition – Whether, award made by Industrial Tribunal was justified – *Held*, in view of manner of distribution of assets of company in liquidation as provided under Section 53 of Code, workmen's dues of company in liquidation should be made strictly in accordance with priority, and, in manner provided in Section 53 of Code – No material before Industrial Tribunal to demonstrate want of gainful employment of workmen after lay-off – No negative evidence could have been led by workmen in this regard – All workmen affected by lay-off used to visit Head Office of Establishment for recording their attendance and they were still doing so – Workmen were not gainfully employed elsewhere – Around 2016 claims of workmen-employees were received, but on perusal of books of accounts and record, Liquidator admitted claims of 6337 workmen – Details of all workmen of Petitioner-Company were with Liquidator – Lay-off having been held to be unjustified and illegal by Industrial Tribunal, all workmen would be entitled to full wages, allowances and consequential benefits as directed by Industrial Tribunal – Any amounts received by workmen towards lay-off compensation should be adjusted – Workmen would only be entitled to receive their dues in accordance with provisions of Section 53 of Code – Petition disposed of. [*LML Limited v. State of U.P*]

(JAYANT BANERJI, J.)
2022-I-LLJ-668 (All)
LNINDORD 2022 ALL 1

Provident Fund and Pension – Constitution of India, 1950 Article 226 – Petitioner-employee sought for directing Respondent 3, to sanction and pay pension, gratuity, provident fund contribution and other retiral benefits, within time frame to be fixed by Court, hence this petition – Whether, Petitioner entitled for pay pension, gratuity, provident fund contribution and other retiral benefits – *Held*, Labour Court was final fact finding authority and there was no authority higher in hierarchy constituted under statutory scheme – Any challenge to order of Labour Court would have to be only by way of writ petition under Article 226 of Constitution – Award of Labour Court relied upon by Petitioner has attained finality and thus, it does not behove Respondents to attempt to rewrite award, in a case instituted by the employee – Challenge by Petitioner was on merits of award itself and for certain conclusions in award which Petitioner

believed, were detrimental to him – writ petition was filed or withdrawn has no bearing on prayer sought for in this case – Respondents were fully bound to give effect to directions of Tribunal as Respondent 3 was fully bound by order passed by Labour Court – *Mandamus* as sought by Petitioner *qua* pension and commutation of pension was also accepted and direction is issued for computation and pay over of same, within certain period – Petition allowed. [*R. Narayanan v. TNSTCL*]

(DR. ANITA SUMANTH, J.)
2022-I-LLJ-659 (Mad)
LNINDORD 2022 BMM 41

Revision of Pay – Respondent's petition before Single Judge allowed setting aside order passed by Appellant 3 and directed him to submit proposal for revision of scale of pay of actual monetary benefit of selection grade granted to Respondent, hence this appeal – Whether, impugned order passed by Single Judge justified – *Held*, post of Receptionist was equivalent to that of Junior Assistant – Once Government decided to extend monetary benefits in respect of Junior Assistants having Selection Grade-Special Grade, postponing said benefit to those holding equivalent posts in Corporation, to later date, inspite of resolution of Corporation might not be correct – When all benefits that available to Government Servants being extended to employees of Corporation, depriving said benefit for want of approval of Government, would amount to discrimination among similarly placed employees – Single Judge has rightly granted relief, which need not be interfered with – Time limit granted by Single Judge, to comply with his order, extended – Appeal dismissed. [*Sec., Govt of TN v. V. Manoharan*]

(S. VAIDYANATHAN, J.)
2022-I-LLJ-664 (Mad)
LNIND 2021 MAD 4129

COMPASSIONATE APPOINTMENT

Approval – Petitioner appointed as Peon on compassionate ground in Respondent-School – Respondent-Education officer by letter refused to accord approval to compassionate appointment of Petitioner, hence this petition – Whether, impugned order liable to be set aside – *Held*, Government Resolution provides for ceiling of 20% on recruitment on compassionate grounds and mandates expeditious action – State of Maharashtra had never imposed complete ban on compassionate appointment – Government Resolution has not been superseded by any subsequent Government Resolution – Compassionate appointment was exception to rule of recruitment – Appointment of candidate on compassionate ground would not be affected by ban on recruitment and such appointment were not fresh appointments – Husband of Petitioner was already appointed as Peon on permanent and sanctioned post – Petitioner has submitted her application within stipulated period, as prescribed under relevant Government Resolution and that post on which her appointment was made was also vacant – Impugned order liable to be set aside and proposal submitted for approval to Petitioner's appointment be decided in right earnest – Petition allowed. [*Manisha Dnyneshwar Londhe v. State of Maharashtra*]

(R.N. LADDHA, J.)
2022-I-LLJ-623 (Bom)
LNIND 2022 BOM 25

DISMISSAL

Misconduct – Appellant's bank petition before Single Judge dismissed and award passed by Industrial Tribunal setting aside punishment of dismissal imposed against Respondent 2-employee as illegal was confirmed, hence this appeal – Whether, impugned order passed by Single Judge and award passed by Tribunal liable to be set aside – *Held*, Industrial Tribunal found that Respondent 2 was not innocent to make fictitious entries and he also colluded with other officials in fraud committed against Appellant Bank – Having given such finding against Respondent 2, it was not legally permissible to disturb finding of guilt arrived at by enquiry officer that was confirmed by disciplinary authority – Once Labour Court gives finding of guilt, no justification to disturb punishment – Enquiry officer has found Respondent 2 guilty of nine charges in

addition to one partly proved charge and disciplinary authority also, concurring with findings of enquiry officer on all, except one charge, thought it fit to impose the punishment of dismissal on Respondent 2 – Single Judge overlooking these vital aspects, has materially erred in confirming award passed by Industrial Tribunal directing reinstatement without back wages, by showing undeserving sympathy on *delinquent* – Both impugned order passed by Single Judge and award passed by Tribunal liable to be set aside – Appeal allowed. [*SBI v. CGIT-cum-LCs*]

(T. RAJA, J.)
2022-I-LLJ-651 (Mad)
LNIND 2022 MAD 108

Misconduct – Appellant-Bank took ultimate step against Respondent-employee in pursuance of departmental proceedings having found him guilty on various counts – Disciplinary Authority proposing punishment of dismissal from service on Respondent – Industrial Tribunal upheld decision of Appellant-Bank but in terms of impugned judgment of High Court, five of charges were found not proved while *qua* two of charges matter was remitted back to Industrial Tribunal with limited mandate, hence this appeal – Whether, impugned judgment of High Court liable to be set aside – Held, High Court has opined that only charges 4 and 5 could really have been gone into by Industrial Tribunal, which required further evidence in its opinion of hand writing expert – So far as other charges were concerned, conclusion was reached that no further evidence was led – Even aspect of other charges could not have been brushed aside in manner it purports to – On matter being remitted back, two witnesses deposed as to these aspects – Respondent was clerk-cum-cashier breached trust of widowed sister-in-law and of bank, making it hardly case for interference on law or on moral grounds – Punishment imposed on Respondent could be said to be disproportionate – Conduct of Respondent established that he did not entitle to continue in service – Impugned judgment of High Court liable to be set aside and challenge to award of Industrial Tribunal repelled – Appeal allowed. [*IOB v. Om Prakash Lal Srivastava*]

(SANJAY KISHAN KAUL, J.)
2022-I-LLJ-629 (SC)
LNIND 2022 SC 46

Misconduct – Industrial Disputes Act, 1947, Section 17B – Constitution of India 1950, Article 226 – Petitioner Bank challenged award of Tribunal holding that punishment of dismissal from service imposed by Management on Respondent 2-workman, was disproportionate and unjust, hence this petition – Whether, impugned award of Tribunal, justified – *Held*, Tribunal arrived at conclusions on basis of deep seated analysis of evidence tendered by Management and appreciating documents produced and marked before Tribunal – No material before Tribunal to establish that there was misappropriation of money – In order to establish misappropriation of money, there should be concrete evidence that workman willfully and with knowledge was removing money from custody of bank with clear intention of causing loss to Bank – No evidence tendered by Management, before Tribunal that there was misappropriation of money – Industrial Tribunal was right in holding that there was only negligence on part of workman while transacting business of Bank, and extreme punishment of dismissal was interfered with, and punishment in commensurate with charge proved was imposed – Workman retired from Bank, and he was paid with amounts due under Section 17B of Act – No arbitrariness, illegality or any other legal infirmities justifying interference with findings rendered by Industrial Tribunal, exercising power of judicial review conferred under Article 226 of Constitution – Petition dismissed. [*SBI v. CGIT-cum-LCs*]

(SHAJI P. CHALY, J.)
2022-I-LLJ-562 (Ker)
LNIND 2021 KER 2

EMPLOYMENT

Termination – Appellant-workman working with Respondent-Company has worked for more than 240 days and was illegally and arbitrarily terminated – Appellant's petition before Single Judge dismissed confirming impugned order passed by Labour Court dismissing reference, hence this appeal – Whether, impugned order of Single Judge justified – *Held*, claim raised by Appellant hinges on identity card produced on

record by him – Appellant was not in service of Respondent, and he was on contract – Appellant has not examined anybody to prove same – Single Judge has rightly held that same would not confer any status of workmen working with Respondent-Company – Upon bare perusal of said identity card, it clearly shows that no employer employee relationship between Appellant and Respondent – It was denied by Respondent that workman has worked for more than 240 days or more in every year and therefore, it could not be said that Labour Court has decided said issue *Suo Motu* – Said issue not raised for first time before Court – Appellant did not produce bank statement, and also failed to prove his relationship of employer employee with Respondent – Appeal dismissed. [*Arvindbhai Vasanji Gamit v. Tata Tele Services Ltd*]

(R.M. CHHAYA, J.)
2022-I-LLJ-599 (Guj)
LNIND 2022 GUJ 2

INDUSTRIAL DISPUTES

Reference – Industrial Disputes Act 1947, Section 10(1)(d) – Madras Hindu Religious and Charitable Endowments Act, 1951 – Tribunal answered preliminary issue and passed award holding that reference of dispute regarding denial of employment to Petitioner by Trustee of Temple was invalid, incompetent and not capable for adjudication under Act 1947, hence this petition – Whether, Tribunal could refuse to decide reference as invalid incompetent and incapable for adjudication in exercise of powers under Section 10(1)(d) of Act, 1947 – *Held*, if Tribunal finds that it had no jurisdiction to adjudicate reference or reference was incapable for adjudication, that finding answers reference in such case – When jurisdiction of Tribunal to adjudicate reference was raised as preliminary issue, Tribunal was bound to decide said question before proceeding to adjudicate dispute on merits and answer to that issue would decide validity of reference – Validity of reference need not be challenged in any separate proceedings and same could be raised before Tribunal in dispute referred for adjudication – Dispute regarding denial of employment to Petitioner by Trustee of Temple was to be resolved by authority constituted under Act, 1951 and rules framed thereunder – Tribunal was right in holding that reference made by Government was invalid – No reason to interfere with award of Tribunal – Petition dismissed. [*K.V. Unnikrishnan v. Kozhikode Samuthiri Raja*]

(MURALI PURUSHOTHAMAN, J.)
2022-I-LLJ-575 (Ker)
LNIND 2021 KER 4

MINIMUM WAGES

Retrospective Effect – Petitioner sought for directing Respondents 1 and 2 to pay minimum wage-scale of pay on *par* with permanent conservancy-sanitary workers with retrospective effect, hence this petition – Whether, Petitioner entitled for minimum wage-scale of pay on *par* with permanent conservancy-sanitary workers with retrospective effect – *Held*, when Corporation involved in engaging contract or scheme workers, such workers could not be meted out step motherly treatment in matter of payment of wages to them – State Corporation was duty bound to address legitimate grievances of workers with all earnestness and empathy in regard to their entitlement of wages and conferment of minimum monetary benefits on them – It could not throw up its hands contending that they form different class of workers and it has no responsibility at all to heed to their cry – State and its Corporations bound to adopt fair method and means, to treat its last grade servants and must ensure that within available resources, those workers were to be adequately compensated – Corporation ought not to lose sight of fact that these workers are integral and essential part of maintenance of City – Respondents directed to formulate comprehensive Scheme for bringing National Urban Livelihood Mission (NULM) workers employed continuously for considerable length of time without any break in regular scale of pay or wages – Petition disposed of. [*Uzhaippor Urimai Iyakkam v. Comm., Chennai Corp.*]

(V. PARTHIBAN, J.)
2022-I-LLJ-636 (Mad)
LNINDORD 2022 MAD 49

MISCONDUCT

Grant of Compensation – Industrial Disputes Act, 1947, Section 2(A) – Single Judge while reversing award passed by labour Court held that Appellant management alone was responsible for getting forced resignation letter and for which directed Appellant to pay compensation of certain sum to Respondent 1-employee, hence this appeal – Whether, impugned order passed by Single Judge liable to be set aside – *Held*, Respondent 1 ought not to have mentioned names of witnesses saying that they were present at time of obtaining forced resignation letter from him – When Respondent 1 claimed that letter of resignation has been forcibly obtained, nothing prevented him to withdraw same by sending registered letter within reasonable time – In claim petition filed under Section 2(A) of Act before Labour Court and in proof affidavits, Respondent 1 not mentioned that there was situation gone beyond his control not to send any application seeking withdrawal of same – These aspects have been completely overlooked by Single Judge – No justification to affirm impugned order passed by Single Judge – Impugned order passed by Single Judge liable to be set aside – Appeal allowed. [*T.I. Diamond Chains v. G. Ravichandran*]

(T. RAJA, J.)
2022-I-LLJ-530 (Mad)
LNIND 2021 MAD 4052

ORDER OF DISMISSAL

Principles of Natural justice – Order of dismissal passed in favour of Petitioner by Respondent no. 2 – Appeal preferred before Respondent no. 1 rejected – Whether, Respondent no. 2 justified in passing order of dismissal in favour of Petitioner – *Held*, duty of Petitioner to array necessary parties in Petition – Unless necessary parties arrayed as Respondents Court could not come to aid of Petitioner – Fault on part of Respondents 3 and 4 as far as the fact of non implementation brought on notice before Court at hearing of contempt petition – Petitioner not had fair opportunity to defend his case – Violation of principles of natural justice – Impugned orders set aside – In view of demise of Petitioner reinstatement could not be given – Due to long passage of time back wages could not be given – Respondents directed to disburse terminal benefits to legal heirs – Petition allowed. [*P. Alagirisamy v. Govt. of Tamil Nadu*]

(D. KRISHNAKUMAR, J.)
2022-I-LLJ-484 (Mad)
LNINDORD 2021 MAD 1182

PENSION

Grant of Interest – Industrial Disputes Act, 1947, Sections 17 and 17A(1) – State Bank of India Employees' Pension Fund Rules, Rule-22(i)(d) – Petitioner-employee sought for directing opposite parties to sanction pension under Rules, and to pay interest @ 12% per annum on amount of arrears of pension due to him with effective date from which award became enforceable under Section 17A(1) of Act, hence this petition – Whether, Petitioner entitled to get pension after retirement on attaining age of superannuation – *Held*, relief sought for in one of petition did not relate to pensionary benefit, as sought for in present writ petition – Present writ petition could not be said to be bar by doctrine of *res judicata* – Petitioner had completed more than 34 years of service, which exceeds 25 years of pensionable service as per Rule-22(i)(d) of Rules – No adherence of any rule for denying benefit admissible to Petitioner under Rules, same could not be withheld or denied to Petitioner – In view of provisions contained under Section 17A(1) of Act, award should become enforceable on expiry of thirty days from date of its publication under Section 17 of Act – Opposite parties directed to pay pension to Petitioner with effect from specified date, and also to pay interest @ 12% per annum for delayed payment of arrears of pension amount to Petitioner, in view of provisions contained under Section 17A(1) of Act – Petition allowed. [*Satya Narayan Dora v. SBI*]

(B.R. SARANGI, J.)
2022-I-LLJ-553 (Ori)
LNIND 2021 ORI 4

RE-EMPLOYMENT

Applicability of Model Standing Orders – Industrial Disputes Act 1947, Sections 2(oo)(bb) and 25H – Employer petitions before Single Judge dismissed upholding directions by Industrial Court to employer to re-employ complainant-employee flowing from Clause 4D and 4E of the Model Standing Orders, hence these appeals – Whether, Single Judge rightly refused to interfere with direction of re-employment granted by Industrial Court by clarifying that such right was in view of Clauses 4D and 4E of Model Standing Orders – *Held*, Single Judge found that obligation to maintain waiting list of temporary employees under Clause 4D of Model Standing Orders was independent of provisions of Section 2(oo)(bb) and Section 25H of Act – No reason to take different view in this regard considering fact that provisions of Model Standing Orders were applicable to Appellant and it was obliged to maintain waiting list of temporary employees – Even if complainants were not found entitled for relief under Section 25H of Act on ground that there was no retrenchment of their services in view of provisions of Section 2(oo)(bb) of the Act, right of re-employment recognized as flowing from Clauses 4D and 4E of Model Standing Orders – Single Judge rightly refused to interfere with direction of re-employment granted by Industrial Court by clarifying that such right was in view of Clauses 4D and 4E of Model Standing Orders – Appeals dismissed. [*Mahindra & Mahindra Ltd v. Madhav Ramkrishna Lomte*]

(A.S. CHANDURKAR, J.)
2022-I-LLJ-489 (Bom)
LNIND 2021 NGP 181

REMOVAL FROM SERVICE

Conversion of Punishment – Appellant Government challenged order passed by Respondents converting punishment of removal from service into one of compulsory retirement, hence this petition – Whether, impugned order passed by Respondents liable to be set aside – *Held*, though application for compassionate appointment itself was beyond three years on account of collusion between officials and parties, said appointment was favourably considered earlier - Even–though action had been initiated by Appellants as early as in specified year, no iota of evidence as to whether person, who had issued forged certificate had been proceeded with – Though Respondent had committed fault, officials of department must have played some part in inducing Respondent to commit wrong and therefore, Single Judge ought not to have converted removal from service into one compulsory retirement – Having completed more than 10 years of service, Government may have to extend pensionary benefits to person – As there was suppression of fact in getting employment, order of Single Judge need to be interfered with, and as detailed enquiry conducted and employer had been found guilty of charges, punishment imposed by Appellants stands restored – Impugned order passed by Respondents liable to be set aside – Petition allowed. [*State of Tamil Nadu v. M. Tamilselvi*]

(S. VAIDYANATHAN, J.)
2022-I-LLJ-535 (Mad)
LNIND 2021 MAD 4058

TERMINATION

Alternate Appointment – Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 Section 47 – Rights of Persons with Disabilities Act, 2016, Section 20 – Divisional Controller of Corporation terminated Petitioner's-employee service as 'driver' on ground that he was found to be colour blind – Petitioner sought for directing Respondents to grant alternate appointment in terms of provisions contained in Section 47 of Act 1995, hence this petition – Whether, Divisional Controller of Corporation justified in terminating Petitioner from service – *Held*, nothing brought on record by Respondents to prove that Petitioner was colour blind even prior to his appointment or that medical certificates, were not genuine - Having regard to will of legislature expressed in Act, 1995 and in Act, 2016 Respondents would have done better to identify suitable post for accommodating Petitioner – Disability that Petitioner has been detected was presumed to have occurred because of nature of work that he was

performing – In terms of Section 20 of Act, 2016 Respondents were under solemn duty to identify suitable post on which Petitioner could be adjusted – Petitioner was not entitled to full back wages having delayed his approach to Court and having not worked from specified year – Respondents shall identify suitable post on which Petitioner could be employed with same pay-scale and service benefits and reinstate him in service – Petition allowed. [*Deepak Mahadeorao Adchule v. V.P. and D.D.*]

(DIPANKAR DATTA, CJ.)
2022-I-LLJ-498 (Bom)
LNIND 2021 NGP 166

Grant of Compensation – Industrial Disputes Act, 1947, Sections 11(A) and 25-B (2) (a) (ii) – Labour Court, by impugned order set aside termination of service of Respondent 2-workman, and directed Petitioner management to pay certain amount as compensation for illegal termination of workman under Section 11 (A) of Act, hence this petition – Whether, impugned order of Labour Court setting aside termination of service of Respondent 2, justified – *Held*, workman discharged burden of proving that he had worked continuously for 240 days prior to specified date in terms of Section 25-B (2) (a) (ii) of Act – Management denied employment to worker without any reasons – Labour Court right in observing that even if worker who was working from specified year had abandoned job, management was duty bound to inform him to join duty or else to face consequence – No reason to interfere with finding of Labour Court that workman was denied of employment by management – Labour Court granted full back wages with attendant monetary benefits to workman, and certain sum awarded as compensation for illegal termination exercising powers under Section 11-A of Act – No duplication, illegality or lack of jurisdiction in awarding compensation in addition to back wages – Impugned award does not suffer from non-application of mind – Petition dismissed.[*S.M.C.S.I. Medical College v. Labour Court*]

(MURALI PURUSHOTHAMAN, J.)
2022-I-LLJ-580 (Ker)
LNIND 2021 KER 3

TRANSFER

Maintainability of Appeal – Industrial Disputes Act, 1947, Section 9A – Constitution of India, 1950, Article 227 – Appellant-employer's petitions before High Court dismissed confirming judgment passed by Labour Court allowing reference in favour of Respondent-employee by declaring their order of transfer as illegal and *void* – Appellant also challenged order passed by Division Bench dismissing appeals as not maintainable, hence these appeals – Whether, order of transfer, illegal and Division Bench rightly dismissed writ appeal as not maintainable – *Held*, nature of service conditions would be changed and consequences of transfer would result in change of service conditions and reduction of employees at specified factory, for which Fourth Schedule and Section 9A of Act should be attracted – Single Judge in cause title specifically mentioned Article 227 of Constitution – Even in prayer clause, no writ of *certiorari* sought – Prayer was simply to quash and set aside judgment passed by Labour Court and, therefore, Division Bench rightly dismissed writ appeal as not maintainable – Order of transfer illegal, and in violation of Section 9A read with Fourth Schedule of Act – Appellant directed to comply with judgment passed by Labour Court as confirmed by Single Judge of High Court – All concerned workmen should be entitled to consequential benefits including arrears of salary – Appeals dismissed. [*Caparo Eng. (1)Ltd v. Ummed Singh Lodhi*]

(M.R. SHAH, J.)
2022-I-LLJ-541 (SC)
LNIND 2021 SC 423

WAGES

Benefits of Provision – Industrial Disputes Act, 1947, Section 17-B – Single Judge by impugned order directed Appellant-employer to pay last drawn wages to Respondent-workman from date of award passed by Labour Court under Section 17-B of Act, hence this appeal – Whether, benefits flowing from provision of S. 17-B of Act available to workman from date of award or from date of institution of proceedings

before Court – *Held*, benefits of Section 17-B of Act available to concerned workman from date of institution of proceedings before Court – So far as order with regard to dismiss review application on ground of its maintainability concerned, order which was sought to be reviewed, passed under Section 17-B of Act and, therefore, benefits extended to concerned workman under provision of Section 17-B of Act has nothing to do with final outcome of petition – Disposal of main writ petition has no effect on right of workman upon any modification and clarification that may render in review proceedings – Appeal allowed. [*Hotel Inder Residency v. Ambalal Bhairaji Chaudhary*]

(NIRAL R. MEHTA, J.)
2022-I-LLJ-607 (Guj)
LNINDU 2022 GUJ 1

APRIL

COMPASSIONATE APPOINTMENT

Age Relaxation – Petitioner sought for directing Respondent authority to relax age limit for compassionate appointment on class III post in place of his father, hence this petition – Whether, age relaxation was permissible in respect of compassionate appointment or not – *Held*, in view of scheme for compassionate appointment upper age limit could be relaxed wherever found to be necessary – On date of application age of Petitioner was 37 years 4 months and 8 days – BPSC Upper age Limit for general category has been prescribed 37 years – In Government service for recruitment upper age limit for general category has been prescribed 37 years – In case of similarly situated person to Petitioner relaxation in age has been considered and decision was taken for her compassionate appointment – Order of rejections of case of Petitioner for his compassionate appointment in place of his father on ground of over age unsustainable in eye of law – Petitioner has made out case – Matter remanded to concerned authority to re-examine relating to Petitioner's eligibility for appointment on compassionate ground and to pass speaking order – Petition disposed off. [*Pravin Kumar v. State of Bihar*]

(P.B. BAJANTHRI, J.)
2022-II-LLJ-108 (Pat)
LNIND 2022 PAT 589

DISMISSAL

Grant of Approval – Industrial Disputes Act 1947, Sections 33(2)(b) and 33(1)(b) – Appellant-management appeal before High Court dismissed upholding order passed by Single Judge and Assistant Commissioner rejecting application filed by management for grant of approval of its action to dismiss workmen under Section 33(2)(b) of Act, hence this appeal – Whether, impugned judgment of Division Bench of High Court liable to be set aside – *Held*, Assistant Commissioner of Labour came to conclusion that once conciliation proceedings were initiated, prior approval under Section 33(1)(b) of Act was necessary and this finding has been confirmed both by Single Judge and Division Bench of High Court – In entering this finding, all three have clearly lost sight of distinction between sub-Section (1) and sub-Section (2) of Section 33 of Act – Single Judge noticed that dismissal was for some other reason, yet held that Section 33 (1)(b) of Act was attracted – No independent application of mind by Division Bench – Action of dismissal for misconduct was not connected with dispute which was pending in conciliation, provisions of Section 33(2)(b) of Act would stand attracted – Order of Assistant Commissioner of Labour was contrary to law and there was error on part of Single Judge and Division Bench in affirming order – Impugned judgment of Division Bench of High Court liable to be set aside – Application for approval filed by Appellant under Section 33(2)(b) of Act would stand approved – Appeal allowed. [*Sri Dorairaj Spintex v. R Chittibabu*]

(DR. DHANANJAYA Y CHANDRACHUD, J.)
2022-II-LLJ-15 (SC)
LNIND 2021 SC 368

Misconduct – Petitioner-employee's industrial dispute before Industrial Tribunal challenging dismissal order rejected, hence this Petition – Whether, impugned orders passed by Respondent 2 and 3 liable to be set aside – *Held*, apart from letter from Headmaster of School, no other records for Management to substantiate their stand that Petitioner had not studied in this school – When no clarity in said letter to establish school certificate produced by Petitioner at the time of appointment, there was duty cast on Management to establish their case by letting in oral evidence to prove same – Headmaster, who had issued letter not examined as witness – Labour Court expressed its views that Petitioner had not made any attempts in enquiry to prove that documents produced by her was genuine and that, had petitioner studied upto VIII Std, it would be easier for her – Such surmises and premises inadmissible, even for preponderance of probabilities – There was perversity in construing contents of said letter, which was basis for entire charge, dismissal order and rejection of claim petition by Labour Court – Petitioner would be entitled for reinstatement, together with all attendant benefits – Dismissal order was illegal and workman would be entitled for full back wages – Impugned orders passed by Respondent 2 and 3 set aside directing them to reinstate Petitioner back into service, together with continuity of service, full back wages and other attendant benefits – Petition allowed. [*G. Anbukili v. Chief Manager, IOB*]

(M.S. RAMESH, J.)
2022-II-LLJ-23 (MAD)
LNINDORD 2022 MAD 352

EMPLOYMENT

Compassionate Appointment – Hindu Marriage Act, Section 16 – Constitution of India, 1950, Article 14 – Appellant 2 representation seeking appointment of her step-son-Appellant 1 under scheme for appointments on compassionate grounds rejected by Respondent – Appellants application before Tribunal dismissed, and writ petition before High Court was also dismissed, hence this appeal – Whether, condition imposed by Railway Board circular that compassionate appointment could not be granted to children born from second wife of deceased employee was legally sustainable – *Held*, child of second wife of employee could not be denied compassionate appointment on that ground alone – Scheme and rules of compassionate appointment could not violate mandate of Article 14 of Constitution – Once Section 16 of Act regards child born from marriage entered into while earlier marriage was subsisting to be legitimate, it would violate Article 14 of Constitution, if policy or rule excludes such child from seeking benefit of compassionate appointment – Circular creates two categories between one class, and it has no nexus to objects sought to be achieved – Once law has deemed them legitimate, it would be impermissible to exclude them from being considered under policy – Judgment and order of High Court liable to be set aside – Appellant 1 could not be denied consideration under scheme of compassionate appointments only because he was son of second wife, there should be direction to consider his case as per extant policy – Appeal allowed. [*Mukesh Kumar v. Union of India*]

(PAMIDIGHANTAM SRI NARASIMHA, J.)
2022-II-LLJ-1 (SC)
LNIND 2022 SC 143

Compassionate Appointment – Industrial Disputes Act, 1947 Sections 2(p) and 18 – Indian Contract Act, 1872, Section 23 – Constitution of India, 1950, Articles 14, 15, 16 and 21 – Petitioner challenged clause 9.5.0(iii) under Chapter IX with heading 'Social Security' of National Coal Wage Agreement-VI, arbitrary and *ultra vires* to them of Articles 14, 15, 16 and 21 of Constitution, spreading discrimination on basis of gender, and to direct Respondents to consider his case for compassionate appointment, hence this petition – Whether, clause 9.5.0(iii) of the NCWA-VI violative of Articles 14 and 16 of Constitution, and case of Petitioner could be considered for grant of compassionate appointment – *Held*, National Coal Wage Agreement was binding settlement under Section 2(p) of Act, 1947 having force of law and therefore, settlement terms should be fair and reasonable and must satisfy tests of Articles 14, 15 and 16 of Constitution and Section 23 of Act, 1872 – Clause 9.5.0(iii) of the NCWA-VI violative of Articles 14 and 16 of Constitution because discrimination was made on basis of gender – Clause 9.5.0(iii) of

the NCWA-VI should be read in manner to also include female dependent who was 12 years of age and above for keeping same in live roster till she attains age of 18 years – Though name of Petitioner was not kept in live roster, direction issued to Respondents to consider case of Petitioner for grant of compassionate appointment commensurate with her skill and qualification within certain period – Petition allowed. [*Mamni Pradhan v. South Eastern Coalfields*]

(ARUP KUMAR GOSWAMI, CJ.)
2022-II-LLJ-38 (CHG)
LNIND 2022 CHG 1

Compassionate appointment – Petitioner sought for directing Respondents authorities to make compassionate appointment post of his deceased mother who was regular employee of Municipality, and died during her service period, hence this petition – Whether, Petitioner has made out *prima facie* case for compassionate appointment – *Held*, compassionate appointment claimed by any person subsequent to specified date, authorities have to insist pass in 10th matriculation – Respondents could not insist that applicant should have minimum qualification of 10th (Matriculation and equivalent examination) – Policy of specified date could not be given retrospective effect so also it was not applicable to Petitioner's case – Petitioner's mother died on specified date and application was submitted on another specified date – For purpose of examination eligibility criteria for compassionate appointment, relevant date was date of application and scheme of compassionate appointment-rules existing as on date of application was required to be applied – Petitioner has made out *prima facie* case – Respondent 2 directed to revisit to Petitioner's claim for compassionate appointment and proceed to issue order of appointment within certain period. [*Munna Mallik v. State of Bihar*]

(P.B. BAJANTHRI, J.)
2022-II-LLJ-170 (Pat)
LNIND 2022 PAT 798

Conferment of Permanent Status – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 – Petitioner-agent sought for forbearing Respondent 2 and 3 from interfering with Petitioners' functioning as Assistants in Respondent 3 Bank by preventing them from signing Attendant Register or from carrying out their duties and directing Respondent 3 to pay salary in post of Assistants – Bank challenged order passed by Assistant Commissioner of Labour in terms of provisions of Act, hence these petitions – Whether, agent could be said to be employee of Bank – *Held*, agents did not have attributes of employees and were not workman for purpose of Act – Question of their regularization did not arise – Petitioners were deposit agents, who receive only percentage of deposits as commission and who enjoy no master-servant relationship *inter se* Bank, question of regularization of their services did not arise – Conclusion of Respondent 1 that they constitute workman for purposes of Act was contrary to facts and legal position – *Mandamus* as sought for by agents forbearing Bank from interfering with their services rendered as Assistants could not be granted and impugned order set aside – Agents were always at liberty to respond to calls for appointments by Bank as and when such calls were made – Petitions of bank allowed – Petition for agents dismissed. [*M. Visuwasam Samuelraj v. JRCS*]

(DR. ANITA SUMANTH, J.)
2022-II-LLJ-160 (Mad)
LNINDORD 2022 BMM 92

GRATUITY

Applicability of Act – Payment of Gratuity Act, 1972, Sections 4 and 14 – Respondent-employer petition before single Judge allowed holding that regulation of Bank would prevail over provisions of Act, and as consequence thereof orders of Controlling Authority and Appellate Authority under Act set aside – Whether, impugned order of single Judge liable to be set aside – *Held*, action of Respondent 1 not to pay gratuity to Appellant was illegal – Direction by Controlling Authority and Appellate Authority under Act, to pay gratuity to Appellant could not have been termed to be *erroneous* in any manner – Sections 4 and 14 of Act would not prevail over Regulations of employer – No case of employer before any of authorities under Act and even before

writ Court that Act was not applicable – Employer has agitated on merits before authorities, so also before Court, that gratuity should not be paid to Appellant because of pendency of proceedings against him – Examining case from any parameter, Appellant could not be denied gratuity – Impugned order of single judge liable to be set aside – Appeal allowed. [*Santhakumar v. MD, Erode DCCB Ltd*]

(PARESH UPADHYAY, J.)
2022-II-LLJ-29 (Mad)
LNIND 2021 MAD 4135

Continuous Service – Payment of Gratuity Act, Section 4(1)(b) – Petitioner sought to quash proceedings, rejecting request for payment of gratuity and for direction to Respondent to release and disburse gratuity amount payable to him for his 16 years of service as Coast Guard, hence this petition – Whether, Petitioner entitled for gratuity amount as per Section 4 (1) (b) of Act – *Held*, Petitioner had contributed his gratuity amount to Respondent Department for his 15 years 10 months and 11 days of service as Coast Guard – Petitioner entitled for gratuity, if termination of employment was after 5 years of continuous service, as per Section 4(1)(b) of Act – Order passed by Respondent department liable to be quashed – Respondent Department directed to settle gratuity amount with appropriate interest in accordance with law – Petition allowed. [*Capt. RC Rajan v. D.G. of Coast Guard*]

(D. KRISHNAKUMAR, J.)
2022-II-LLJ-166 (Mad) LNINDORD 2022 MAD 263

MATERNITY BENEFITS

Promotion – Petitioner sought for directing Respondents to promote her as Assistant with effect from date on which her juniors were given promotion with all monetary and other attendant benefits by considering leave period spent on Maternity as Service Period for purpose of declaration of Probation, hence this petition – Whether, impugned order passed by Respondents liable to be quashed – *Held*, having treated maternity leave availed by Petitioner as full duty period, no justification on part of Respondents in delaying her declaration of probation, thereby depriving her seniority – Declaration of completion of Petitioner probation ought to have been made with effect from specified date and, she should have been promoted from date on which her immediate juniors were promoted – Acceptance of promotion without objection would not be estoppels for claiming rectification of anomaly, when Respondents have admitted that maternity leave has been treated as duty period – There need not be separate regulations to this effect – Impugned order declaring completion of Petitioner probation liable to be quashed – Respondents directed to issue fresh orders, declaring completion of Petitioner's probation with effect from specified date – Respondents should also issue fresh promotion orders promoting her to post of Assistant with effect from date on which her immediate juniors were promoted – Petition allowed. [*C. Selvi v. Director of Govt Examination*]

(M.S. RAMESH, J.)
2022-II-LLJ-32 (Mad) LNINDORD 2022 MAD 62

MISCONDUCT

Refund of Amount – Petitioner sought for directing Respondents to refund amount already recovered from his salary towards loss of unused ticket books in road traffic accident which occurred during his duty and towards charges for recovering bus by engaging crane, hence these petitions – Whether, Petitioner entitled for refund of amount already recovered from his salary towards loss of unused ticket books – *Held*, Petitioner preferred police complaint immediately about loss of tickets due to accident – Petitioner preferred FIR immediately after accident and had intimated loss of tickets in FIR also – Petitioner protected under Clause 29 of the 12(3) settlement – Impugned order set aside and further directs the Respondents to refund amount already deducted – Respondents directed not to collect balance amount, as Petitioner protected under Clause 29 – Petitions allowed. [*A. Vijayan v. SETC (TN) Ltd*]

(S. SRIMATHY, J.)
2022-II-LLJ-175 (Mad)
LNINDORD 2022 BMM 136

PRINCIPLES OF NATURAL JUSTICE

Non-compliance with Provision – Industrial Dispute Act, 1947, Section 9A – Petitioner sought for forbearing Respondents 1,2 and 4 with process of disinvestment of stake of Government of India without taking appropriate measures to protect terms and conditions of service and rights of employees of Respondent 2 represented by Petitioner union, and settling all pending dues of members of Petitioner union, hence this petition – Whether, employees entitled to notice or opportunity or pre-decisional hearing in terms of Section 9A of Act in face of decision being taken by Government towards advancing larger public interest and before SPA was signed and implemented – *Held*, economic policy decision in furtherance of larger public interest could not be subjected to judicial audit habitually or routinely on ground that there was no opportunity of hearing afforded to employees – Decision taken by Government, was to advance larger public interest, also to protect employees' interest and consumer's interest – Procedural non-compliance with provision could not be allowed to affect all stakeholders in country – Petitioner union could not be allowed to play up non-compliance with Section 9A of Act in order to upset or scuttle changeover and mutation – Section 9A of Act would have no application in this case – In view of participation of representatives of employees belonging to all categories in bilateral committee's deliberations and discussion, opportunity of hearing extended to employees before finalizing SPA – Petition dismissed. [*Air Corp. Emp., Union v. Union of India*]

(V. PARTHIBAN, J.)
2022-II-LLJ-180 (Mad)
LNINDORD 2022 MAD 486

RECALLING OF WITNESS

Applicability of Law – Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 – Petitioner-workman's application before enquiry Officer for recalling Management witness rejected – Petitioner's complaint before Labour Court rejected – Petitioner's revision before Industrial Court dismissed, hence this petition – Whether, law laid down by Supreme Court in specified case that that any order passed by Enquiry Officer at any stage in Domestic Enquiry (DE) could be questioned under Item 1 of Schedule IV, before Labour Court, justified – *Held*, worker could not challenge order of Enquiry Officer and interject DE at every stage – For every violation of facet of natural justice or of rule incorporating such facet, it could not be held that order passed was *void* and ought to be set aside without further enquiry – Employer has conceived determination to terminate employee at every stage in enquiry and file ULP complaint so as to challenge order passed by Enquiry Officer, would amount to stretching law laid down in specified case too far and it would result in stiffing and truncating enquiry – Complaint filed before Labour Court, is rendered untenable in law and same stands disposed off – Because different view could be possibly taken from point of view of charge-sheeted workman, would not mean that impugned orders were *perverse* – Petition dismissed. [*Vinod Pattar v. EIH Ltd*]

(RAVINDRA V. CHUGE, J.)
2022-II-LLJ-58 (Bom) LNIND 2022 BOM 69

REFERENCE OF DISPUTE

Applicability of Bar – Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, Sections 28(1) and 59 – Industrial Dispute Act, 1947, Sections 2A and 2A(1) – Petitioner challenged order of competent authority holding that industrial dispute raised by respondent-employees needs to be referred to Labour Court for considering whether they should be reinstated in service with continuity and full back wages from dates of their termination, hence these petitions – Whether, rejection of application for condonation of delay in complaint filed under Section 28(1) of Act, 1971 would attract bar of Section 59 of Act, 1971 – *Held*, once workers declined condonation of delay, their attempt to commence litigation under Section 28(1) of Act, 1971 failed – Labour Court had not exercised its jurisdiction on merits of matter and, hence, these workers should be disallowed from questioning their purported unlawful termination – Rejection of application for condonation of delay would not mean that worker has effectively utilized statutory remedy available to him – Bar of Section 59 of

Act, 1971 would not be applicable to their reference cases – Where Court finds existence of dispute, though raised belatedly, it always open to Court to mould relief – Doctrine of laches has its applicability from maxim of "delay defeats equities" – Termination or dismissal from service defined to be deemed industrial dispute under Section 2A of Act, 1947 – Employees adopted course under Section 2A(1) of Act, 1947 to raise industrial dispute – Petitions dismissed. [*Bata India Ltd v. State of MH*]

(RAVINDRA V. GHUGE, J.)
2022-II-LLJ-143 (Bom)
LNIND 2022 BOM 72

TERMINAL AND MONETARY BENEFITS

Retirement on Superannuation – Petitioner sought for directing Respondents to pay all terminal benefits and other monetary benefits payable on account of his retirement on superannuation together with 12% interest, hence this petition – Whether, Petitioner entitled for terminal and other monetary benefits on account of his retirement on superannuation together with 12% interest – *Held*, enquiry was against DVC circular and enquiry vitiated and targeted against Petitioner alone – Also, enquiry was initiated to satisfy anonymous letter writer, thereby stopping further anonymous letters in this regard, so that Respondents were not put to further trouble – Alleged *delinquency* had happened during specified year and charge sheet issued just 10 days before superannuation, by taking note of anonymous letter – Action was taken based on anonymous letter which was against DVC circular – Petitioner has saved bank by collecting certain sum and has saved name of bank by rectifying spurious jewel loans – Bank has appreciated one of person and bank has not taken action against Ex-Chairman – Vindictive attitude of bank against Petitioner and therefore, impugned order of punishment set aside – Respondents directed to pay terminal benefits to Petitioner – Petition allowed. [*S. Paramasivam v. Chairman, DA*]

(S. SRIMATHY, J.)
2022-II-LLJ-118 (Mad)
LNINDORD 2022 BMM 84

TERMINTION

Calculation of Pension – Respondent-workman was in employment of Appellant Corporation terminated from service – Appellant Management approval Petition before Commissioner of Labour, rejected – Management petition before Single Judge dismissed holding that workman shall not be entitled to back wages for specified period and said period should be counted for purpose of calculation of pension, hence this appeal – Whether, period during which workman had remained out of employment for no fault attributable to him could be counted as pensionable service – *Held*, competent authority has for valid reasons disapproved approval Petition and Single Judge has also not interfered with it – Single Judge attempted to balance equities between Appellant and Respondent and for that purpose concession was given on behalf of workman that he forgoes actual payment of arrears towards back wages for said period – Said concession could not be stretched to extent that said period to be counted as non pensionable service – Concession on behalf of workman could not be understood to that extent – Even in those cases, where back wages was not granted for valid reason, period during which workman had remained out of employment for no fault attributable to him, has to be counted as pensionable service – Even permitting Management or Pension Trust to exclude said period as non pensionable service would result in acceptance of said termination to be valid for limited purpose which is held to be illegal – Appeal dismissed. [*Mngt., of TNSTCL v. Special Deputy Comm'r*]

(PARESH UPADHYAY, J.)
2022-II-LLJ-112 (Mad)
LNIND 2022 MAD 210

WAGES

Jurisdiction – Industrial Disputes Act, 1947, Section 33(C)(2) – Appellant-employer petition before High Court dismissed confirming Labour Court order directing Appellant to pay difference of wages to Respondent 2-employee, hence this appeal –

Whether, impugned judgment passed by High Court and order passed by Labour Court under Section 33(C)(2) of Act liable to be set aside – *Held*, no prior adjudication on issue whether Respondent 2 was in employment as salesman and documents relied upon by Respondent 2 were disputed by Appellant – It was case of Appellant that those documents forged and false, thereafter Labour Court ought not to have proceeded further with application under Section 33(C)(2) of Act – Labour Court ought to have relegated Respondent 2 to initiate appropriate proceedings by way of reference and get his right crystalized and adjudicate upon – Order passed by Labour Court was beyond jurisdiction conferred under Section 33(C)(2) of Act – High Court has not appreciated said facts and has confirmed same without adverting to scope and ambit of jurisdiction of Labour Court under Section 33(C)(2) of Act – Impugned judgment passed by High Court and order passed by Labour Court under Section 33(C)(2) of Act liable to be set aside – Appeal allowed. [*Bombay Chemical Ind. V. Deputy Labour Comm'r*]

(M.R. SHAH, J.)
2022-II-LLJ-53 (SC)
LNIND 2022 SC 95

MAY

BENEFITS

Compensation – Industrial Disputes Act, 1947, Sections 17-B and 25-F – Industrial Dispute before Labour Court allowed directing reinstatement of Appellant-workman without back wages – Respondent-employer writ petition before Single Judge allowed awarding certain sum to each of workmen, hence these appeals – Whether, impugned order passed by Single Judge deserves to be set aside – *Held*, employer-Respondent 1 and 2, while complying with Section 17-B of Act, reinstated workman and till date, workman was continuing as Daily Wager – Workman was in service as Daily Wager right form specified year – Question of granting compensation of certain sum, as directed by Single Judge, did not arise – Workman has put in 240 days of service in calendar year and he was terminated contrary to statutory provisions contained under Act – There was violation of Section 25-F of Act and therefore, Labour Court was justified in passing award directing reinstatement of workman – Impugned order passed by Single Judge deserves to be set aside – Appeals allowed. [*Mohan v. Superintending Engineer*]

(SATISH CHANDRA SHARMA, CJ.)
2022-II-LLJ-247 (TS)
LNIND 2022 TS 113

Maternity Leave – Petitioner-employee sought for quashing impugned order passed by Respondent 4, and to direct Respondents to sanction maternity leave for 12 months commencing from specified date, hence this petition – Whether, Petitioner entitled to maternity leave for 12 months – *Held*, Petitioner having three children and this was third child for which, she seek maternity leave – Even though *proviso* states that maternity leave should be granted to woman with less than 2 surviving children, main clause says that maternity leave would not be admissible for more than three children – Main section would have over riding effect than *proviso* – Woman employee entitled to maternity benefits for birth of third child also – Woman entitled to maternity leave unless the Act restricts-ban to have third child – There was no such ban, Petitioner entitled to maternity leave – Respondents directed to provide maternity leave for 12 months to Petitioner – Petition allowed. [*A. Deepalakshmi v. Govt of Tamil Nadu*]

(S. SRIMATHY, J.)
2022-II-LLJ-371 (Mad)
LNINDORD 2022 BMM 376

Pension – Respondent 1-employee petition before Single Bench allowed directing Appellant Municipal Corporation to treat service of Respondent 1 in post of Junior Assistant notionally with effect from specified year and fix his pension, superannuation benefits for regular disbursement on retirement, hence this appeal – Whether, direction issued by Single Bench liable to be set aside – *Held*, Respondent 1 by way of second

round of litigation, could not seek to undo effect of appointments of five candidates and also he could not seek to set clock back to position when he was not in service of Appellant Municipal Corporation – Direction issued by Single Bench to notionally grant benefits from specified year for purpose of fixing pensionary benefits did not merit acceptance – Respondent 1 has been put in very disadvantageous position inasmuch as his length of service would fall short of by about nine months while calculating 20 years of service – Direction issued by Single Bench liable to be set aside – Appellant Municipal Corporation directed to relax shortfall in length of service of Respondent 1 while calculating 20 years of services to enable him to draw full pension in terms of regulations – Appeal allowed. [*Kolkata Municipal Corp. v. Chiranjib Roy*]

(T.S. SIVAGNANAM, J.)
2022-II-LLJ-442 (Cal)
LNIND 2022 CAL 402

COMPASSIONATE APPOINTMENT

Benefit of Promotion – Petitioner-employee seeking benefit of promotion which has been extended to Account Assistants with effect from specified date, hence this petition – Whether, benefit of promotion could be extended to Petitioners – *Held*, no bar in giving promotion to candidates who were appointed on compassionate ground if they are found eligible – At the time of issuing promotional order, Petitioners were senior in cadre of Accounts Assistant to Respondents – Before giving effect to promotion of Respondents, case of Petitioners' ought to have been considered by Respondent authorities – Concerned authorities directed to give benefit of promotion to Petitioners, from specified date notionally and actual benefit to be accrued, by promoting them to posts of Senior Accounts Assistant – Petition disposed of. [*Sri Goutam Ghosh v. KMDA*]

(SAUGATA BHATTACHARYYA, J.)
2022-II-LLJ-367 (Cal)
LNIND 2022 CAL 332

COMPUTATION OF MONETARY BENEFIT

Maintainability of Application – Industrial Disputes Act, 1947, Sections 33C(2) and 33C – Code of Civil Procedure, 1908, Section 38 – Respondent-employee, approached Labour Court in application under Section 33C(2) of Act, 1947 for computation of monetary benefit arising out of *exparte* decree granted by Trial Court in respect of his seniority, grade of pay and suspension – Maintainability of said application challenged before Labour Court by Petitioners – Labour Court rejected prayer of Petitioners and held that case was maintainable, hence this petition – Whether, impugned order of Labour Court liable to be set aside – *Held*, workman has been granted decree by Civil Court and such decree executable in accordance with Section 38 of CPC – It was open to workman to approach Civil Court for execution of decree – Labour Court has not been vested with authority to execute decree of Civil Court, in exercise of jurisdiction under Section 33C(2) of Act – Prayer of Respondent, being execution of decree of Civil Court *dehors* tenet of law laid down under Sections 38, 39 of CPC – Labour Court could not cast upon itself authority to execute such decree – Labour Court has erred in interpreting law laid down under Section 33C of Act, and has no jurisdiction to entertain application filed by Respondents before it – Impugned order of Labour Court liable to be set aside – Petition allowed. [*Delta Limited v. State of WB*]

(SUVRA GHOSH, J.)
2022-II-LLJ-308 (Cal)
LNIND 2022 CAL 288

EMPLOYMENT

Compassionate Appointment – Petitioner sought for directing Respondent 2 to grant approval in favour of him as Peon being appointed on compassionate ground from date of initial appointment and also to make payment of salary from date of initial appointment, hence this petition – Whether, approval could be granted to Petitioner's appointment on compassionate ground – *Held*, State has ensured that no single Government Resolution, pertaining to ban on recruitment, stay on filling in vacant posts

and prohibition on appointments until staffing pattern of non teaching posts formalized, would apply to appointments made on compassionate grounds – Compassionate appointment would be exception to mandatory rule of following specific selection procedure for recruitment on vacant posts or on newly created posts – If Education Officer notices that particular Management attempting to defeat rights of eligible candidate for compassionate appointment, he would be at liberty to initiate appropriate action against such Management – Approvals stand granted to these Petitioners from dates of their joining duties on compassionate basis, with all monetary benefits accruing to their posts – Formal approval orders should be issued by concerned Education Officers, before specified date – No necessity to have sanction to new staffing pattern for appointment on compassionate ground – Impugned order set aside directing Respondent 2 to accord approval to Petitioner's appointment on compassionate ground – Petition allowed. [*Varsha Deepak Desale v. State of MH*]

(S. G. DIGE, J.)
2022-II-LLJ-363 (BOM)
LNIND 2022 AUG 71

Compassionate Appointment – Petitioner-Appellant was abruptly terminated from service by order passed by Respondent though, his case considered for appointment on compassionate ground to post of Mazdoor – Petitioner's petition before Single Judge dismissed, hence this appeal – Whether, order passed by Single Judge liable to be set aside – *Held*, Respondent having allowed Petitioner to work for more than nine years and thereafter divesting off his duties on ground that, he has wrongly provided with employment after 23 years since date of demise of his father, may not be correct – Employee was already working, there was no need to disturb his job – Order passed by Respondent, abruptly terminating services of Appellant, illegal – Order passed by Single judge liable to be set aside – Appellant has not worked under Respondent from date of termination, no back wages granted to him – Entire period of service of Appellant with Respondent *i.e.*, date of his entry into service should be taken into account for purpose of granting other service benefits to him, including terminal benefits – Appeal allowed. [*R. Murugan v. Deputy Director of PHPM*]

(S. VAIDYANATHAN, J.)
2022-II-LLJ-295 (Mad)
LNIND 2022 MAD 747

Employer-Employee Relationship – Appellant-employer's petition before Single Judge dismissed upholding order of Tribunal that termination was bad, and directed Appellant to pay compensation of certain sum to Respondent 9-employee, hence this appeal – Whether, writ Court was justified by not interfering with order passed by Tribunal, and there exists employer-employee relationship between Appellant and Respondent – *Held*, Respondent 9 could not produce any appointment letter issued by Appellant, and failed to prove that he was paid salary directly by Appellant – Tribunal shifted burden of proof of employer employee relationship upon Appellant when burden of proof lay on Respondent 9 – Procedure adopted by Tribunal in placing *onus* on wrong person amounts to error of law enabling writ Court to interfere – Overwhelming weight of evidence also did not support finding of Tribunal – Writ Court failed to exercise its power of judicial review by not interfering with order of Tribunal – Respondent 9 failed to discharge *onus* to prove existence of employer-employee relationship between him and Appellant – Respondent 9 was not employee of Appellant – As there was no existence of employer-employee relationship between Respondent 9 and Appellant, question of termination of service of Respondent 9 by Appellant did not arise – Appellants could not be fastened with liability for payment of any monetary compensation – Impugned award passed by Tribunal and order passed by Single Judge liable to be set aside – Appeal allowed. [*Weather Control v. State of WB*]

(HIRANMAY BHATTACHARYYA, J.)
2022-II-LLJ-318 (Cal)
LNIND 2022 CAL 299

Promotion – Petitioner-employee sought for quashing impugned orders passed by Respondent 1 and 4 and direct Respondents to promote him as Deputy Registrar of Cooperative Societies for panel of specified year, hence these petitions – Whether, impugned orders passed by Respondent 1 and 4 liable to be set aside and Petitioner entitled to grant of relief of promotion – *Held*, charge issued against Petitioner not maintainable both of ground of delay and also on merits – Consequent order of punishment also could not be sustained – Once, charge memorandum and consequent punishment order were to be held as illegal and unsustainable, subsequent G.O. would also have to be automatically set aside – Petitioner was deemed to have not suffered any disqualification for promotion for post of Deputy Registrar for panel of specified year – Petitioner entitled to grant of relief of promotion as Deputy Registrar of Co-operative Societies for panel of specified year – Impugned orders passed by Respondent 1 and 4 liable to be set aside – Competent authority directed to pass appropriate orders granting promotion to Petitioner as Deputy Registrar – Petitions allowed. [*M. Raja v. Principal Sec. to Govt*]

(V. PARTHIBAN, J.)
2022-II-LLJ-300 (Mad)
LNINDORD 2022 MAD 553

Promotion – Tamil Nadu Ministerial Service Rules – Petitioner's petition before Single Judge seeking promotion to post of Junior Assistant allowed with direction to Authorities to appoint him to post of Junior Assistant and fix pay for purpose of retirement benefits, hence this appeal – Whether, employee eligible to be considered for appointment or promotion to post of Junior Assistant – *Held*, Rules provides that, employee must complete seven years of service in lower category to gain promotion to post of Junior Assistant – Petitioner was not eligible to be considered for promotion to post of Junior Assistant, as Certificate produced by him was found to be bogus – Powers of Administrative Tribunal were limited and it could not substitute punishment imposed by Authority – It could not direct Authority to revert employee dismissed from service to lower category, in which, he was not selected – Government has complied with orders of Tribunal by appointing Petitioner to post of Record Clerk – Order passed by Single Judge set aside only with regard to quashing of order passed by Respondent 3 – Direction issued by Single Judge as regards fixation of pay for purpose of retirement benefits payable to Petitioner in post of Record Clerk, deserves to be upheld – Appeal allowed. [*Director of School Education v. S.L. Moorthy*]

(S. VAIDYANATHAN, J.)
2022-II-LLJ-262 (Mad)
LNIND 2022 MAD 618

Reinstatement without Back Wages – Industrial Dispute Act, 1947, Section 11A – Appellant-workman joined service of Respondent Bank dismissed from service on ground of misconduct – Appellant petition before Tribunal allowed reinstating him into service without back wages, but with continuity of service and all other attended benefits – Respondent-management petition before Single Judge allowed and that of filed by Appellant dismissed, hence these appeals – Whether, order passed by Single Judge liable to be set aside – *Held*, Appellant was last grade servant and no allegation of any misappropriation against him – Question loss of confidence not sustainable – Charges leveled against Appellant would amount to minor misconduct as per clause 7 of Bank settlement and warrants punishment mentioned in clause 8 of settlement – Appellant did not face charges of grave misconduct, which warrants punishment of removal from service – Award of Tribunal ordering reinstatement cannot be interfered with, as it exercised its power under Section 11A of Act, in interfering with punishment of removal – While interfering with punishment by exercising power under Section 11A of Act, Tribunal was bound to give reasons – Tribunal gave adequate reasons for interfering with punishment – No infirmity in award of Tribunal – Order passed by Single Judge liable to be set aside – Bank directed to pay all other attendant benefits without back wages, to Appellant – Appeal filed by Respondent allowed and that of filed by Appellant dismissed. [*M. Gowrishankar v. DGM, SBI*]

(J. SATHYA NARAYANA PRASAD, J.)
2022-II-LLJ-378 (Mad)
LNIND 2022 MAD 1128

GRATUITY

Benefit of Enhancement – Payment of Gratuity Act, Petitioners sought for directing Respondent 3 to grant benefit of enhancement of ceiling on terminal gratuity to them with all consequential benefits, hence these petitions – Whether, Petitioners entitled for benefit of enhancement of ceiling on terminal gratuity – *Held*, impugned order, extending benefit of Official Memorandum (O.M.) to pay revision alone and denying benefit of full gratuity of certain sum would defeat object of O.M. – Depriving differential gratuity of certain sum, which in justice and equity belongs to Petitioners, would amount to unjust enrichment – Decision of Respondent in impugned letter in fixing gratuity ceiling at certain sum in accordance with pre-amended provision of Act, after implementing pay revisions fully in accordance with O.M. not sustainable – Impugned letter liable to be quashed directing Respondents 3 and 4 to disburse differential gratuity amount to each of Petitioners, within certain period – Petitions allowed. [*Ct. Meyyappan v. Govt of India*]

(M.S. RAMESH, J.)
2022-II-LLJ-339 (Mad)
LNINDORD 2022 MAD 573

ORDER OF SUSPENSION

Non-compliance of Procedure – Visva-Bharati Act, 1951, Sections 14 and 38 – Petitioner-employee sought for quashing of show-cause, Charge-sheet and orders of suspension, hence this petition – Whether, impugned show-cause notice, Charge-sheet and orders of suspension liable to be quashed – *Held*, University not followed procedure provided for under Sections 38 or 14 of Act – Issue of show-cause notice, Memorandum of Charges and order of suspension were contrary to Act and Statutes of University – No indication in any of impugned notices as to who has directed Registrar to take steps complained of – Charge-sheet was vague and devoid of particulars – It was imperative for person competent to issue Charge-sheet to define terms of misconduct and in what manner Petitioner was guilty of it – Registrar (Acting) did not have power to initiate disciplinary action against Petitioner, who was Adhyapaka of university, defect of jurisdiction goes to root of matter and nullifies all subsequent steps taken thereafter – Charge-sheet and order of suspension without authority and should be quashed on that basis – Impugned show-cause notice, Charge-sheet and orders of suspension deserves to be revoked – Petition disposed of. [*Rajesh K.V. v. Visva-Bharati*]

(MOUSHUMI BHATTACHARYA, J.)
2022-II-LLJ-412 (Cal)
LNIND 2022 CAL 378

Non-compliance of Rules – Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, Rules 13 and 17(e) – Petitioner-employee sought for quashing impugned order of suspension passed by Respondent 2, and consequential order of ratification passed by Respondent 1, directing Respondents to reinstate him in service with all service and monetary benefits, hence these petitions – Whether, impugned order of suspension passed by Respondent 2 valid in law and also in compliance of Rules 13 and 17(e) of Rules – *Held*, Petitioner, being Professor of Surgical Oncology, was placed under suspension by Respondent 2 – Rule 13 of Rules clearly envisages that up to level of Assistant Surgeons, Respondent 2 was competent authority – For other members of State services like Petitioner, Respondent 1-State Government was competent authority to issue order of suspension – When the Act prescribes particular body to exercise power, it must be exercised only by that body – It cannot be exercised by others unless it was delegated – Respondents also unable to substantiate by way of relevant statute that Respondent 1 could delegate power to Respondent 2 to issue suspension order – Respondent 2 was not competent authority to issue order of suspension – Impugned order of suspension has been passed by incompetent authority-Respondent 2 and its subsequent ratification by Respondent 1 unsustainable in law and liable to be quashed – Respondents directed to reinstate Petitioner in service with all monetary benefits as per Rules – Petitions allowed. [*Dr. S. Subbiah v. State of TN*]

(D. KRISHNAKUMAR, J.)
2022-II-LLJ-448 (Mad) LNINDORD 2022 MAD 639

PENSION

Recovery of Bank's dues – Pensions Act, 1871, Sections 11 and 30 – Vidarbha Konkan Gramin Bank (Employees) Pension Regulations, 2018, Regulation 47 – Code of Civil Procedure, 1908, Sections 60 and 60(1)(g) – Petitioner-employee challenged recovery of Bank's dues from his pension account by having recourse to Regulation 47 of Regulations, as being *ultra vires* to provisions of Act, and also provisions of Section 60 of CPC, hence this petition – Whether, it is permissible for Bank in exercise of authority under Regulation 47 of its Pension Regulations to recover its dues on account of loan advanced to Petitioner from his pension account – *Held*, impugned action of recovery was from Petitioner's pension account in terms of Regulation 47 – Pension Regulations have been brought into force by following legal modalities prescribed by Section 30 of Act – Regulation 47 of Regulations which empowers Bank to recover its dues from pension account of staff member was not in contravention of Section 11 of Act which applies to pensions and grants by Central Government and State Government – Such recovery not being in execution of decree by any Court, same was not in any manner contrary to provisions of Section 60(1)(g) of CPC – No reason to uphold challenge as raised by Petitioner to recovery of Bank's dues from his pension account by having recourse to Regulation 47 of Regulations – Petition dismissed. [*Vasant v. VKG Bank*]

(A.S. CHANDURKAR, J.)
2022-II-LLJ-425 (Bom)
LNIND 2022 NGP 50

PROVIDENT FUND

Recovery of Money – Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Sections 7A and 7A (2) – Proceeding under Section 7A of Act initiated against Petitioner organization – No opportunity provided to Petitioner for adducing evidence, in support of his contention and order was passed directing him to pay certain amount – Petitioner complains violation of Section 7A(2) of Act, hence this petition – Whether, impugned order passed in violation of principles of natural justice required to be set aside *Held*, authority has failed to exercise such power that was necessary for adjudicating issue –Impugned order was in substance, reflection of contents of report submitted by enforcement officers and authority concerned has only accepted-reiterated contention of enforcement officers without independent application of mind – Though several dates of hearing recorded in order, no indication as to any submission made by Petitioner before authority, let alone consideration of such submission – Petitioner was deprived of opportunity of proving his case and at same time disproving case of enforcement officers, as enjoined in law – Impugned order has been passed in violation of principles of natural justice and required to be set aside – Respondent 2 directed to decide proceeding under Section 7A of Act afresh after giving reasonable opportunity to both Petitioner and Respondent to adduce evidence, in support of their respective contentions in terms of Section 7A (2) of Act by speaking and reasoned order – Petition allowed. [*Central Tool Room v. EPF Organisation*]

(SUVRA GHOSH, J.)
2022-II-LLJ-418 (Cal)
LNIND 2022 CAL 365

REDUCTION OF PAY

Principles of Natural Justice – Respondent 2 without considering objections and without offering any personal enquiry has passed impugned order, whereby certain sum was reduced from basic pay of Petitioner-employee – Petitioner sought for quashing impugned order of Respondent 2, hence this petition – Whether, impugned order passed by Respondent 2 liable to be set aside – *Held*, Petitioner was right in stating that when Charge Memo was issued, said Charge Memo was without any particulars or mentioning of any rules and that was rightly set aside by Appellate Authority – Second show cause notice was issued and Petitioner has submitted his objection – No record to state that enquiry was conducted by Respondents – In impugned order it has been stated that personal hearing was conducted and statement of Petitioner was recorded – Enquiry was not conducted as per established procedures, documents were not produced or marked – No witnesses were examined – This was

second round of litigation among parties – Court was not inclined to remit back again to Respondents to grant opportunity to Petitioner and this would be futile exercise – Impugned order of punishment set aside directing authorities to pay all terminal benefits to Petitioner – Petition allowed. [*A. Thavamaniraj v. Registrar of Co-op*]

(S. SRIMATHY, J.)
2022-II-LLJ-334 (Mad)
LNINDORD 2022 BMM 307

REINSTATEMENT

Non-supply of Inquiry Report – Industrial Tribunal as enquiry report was not furnished to employee, passed award setting aside order of punishment and directing reinstatement without back wages – Respondent 1 petition before Single Judge allowed directing Tribunal to decide matter on merits fresh, hence this appeal – Whether, impugned order passed by Single Judge, justified – *Held*, enquiry report was not furnished to Appellant-employee – Non-supply of inquiry report did not automatically warrant re-instatement of *delinquent* employee – It is incumbent upon on *delinquent* employee to plead and prove that he suffered serious prejudice due to non-supply of inquiry report – Order passed by Single Judge remanding matter to Tribunal did not warrant interference – Tribunal has set aside punishment order directing reinstatement of workman solely on ground that enquiry report was not supplied to workman – Matter remanded back to Tribunal to pass fresh order – Appeal disposed of. [*S. Venkatachary v. Addilabad Milk Producers*]

(SATISH CHANDRA SHARMA, CJ.)
2022-II-LLJ-254 (TS)
LNIND 2022 TS 184

RETIREMENT

Determination of Age – Industrial Disputes Act 1947, Section 9(A) – Tribunal held that Petitioner violated provision of Section 9(A) of Industrial Disputes Act and granted award in favour of employees holding retirement age to be 65 years, hence present petition – Whether, age of retirement of employees should be accepted as 65 years instead of 58 years – *Held*, Memorandum of settlement signed by majority of employees in agreement to same – No notice was required to be issued under Section 9A of Act, 1947 intimating change of date of retirement – Nothing on record to show that service of any employee of company was extended beyond age of 58 years – Notice regarding age of retirement being issued in 1993, was neither absurd nor improbable – No cogent ground made out by Respondent which proves that all documents relied upon by Petitioner were manufactured and fraudulent – No action on part of Petitioner arbitrary or violative of any constitutional, statutory or other provision of law – No impediment to hold that Petitioner was justified in fixing age of retirement of employees at 58 years – Petition allowed. [*P.C. News Agency v. Sri Pradip Biswas*]

(SUVRA GHOSH, J.)
2022-II-LLJ-279 (Cal)
LNIND 2022 CAL 258

STOPPAGE OF TWO ANNUAL INCREMENTS

Non-Compliance of Provisions – Industrial Disputes Act, 1947, Sections 2A(2) and 10 – Respondent 2-employee preferred appeal before employer and by order, punishment of removal awarded by employer was reduced to that of stoppage of two annual increments with cumulative effect – Respondent 2 industrial dispute before Labour Court under Section 2A(2) of Act, dismissed – Respondent 2 petition before Single Judge allowed, hence this appeal – Whether, impugned order passed by Single Judge deserves to be set aside – *Held*, Single Judge, in impugned order, even though it was not case of removal, discharge, dismissal, retrenchment or termination, has directed Labour Court to decide dispute on merits – In case of discharge, dismissal, retrenchment and terminal, workman can approach Labour Court or Tribunal directly without following provisions as contained under Section 10 of Act – Respondent 2 has preferred petition under Section 2A of Act, in respect of stoppage of two annual

increments – Impugned order passed by Single Judge deserves to be set aside – Appeal allowed. [*APSRTC v. Presiding Officer, L.C-II*]

(SATISH CHANDRA SHARMA, CJ.)
2022-II-LLJ-250 (TS) LNIND 2022 TS 236

SURCHARGE PROCEEDINGS

Non-furnishing of Inspection Report – Tamil Nadu Cooperative Societies act, Sections 81, 82, 83 and 87 – Respondent 1 initiated surcharge proceedings under Section 87 of Act holding that Petitioner-employee got promotion by furnishing forged certificate, and directed him to pay certain amount to Society – Petitioner's appeal before District Judge dismissed, hence this petition – Whether, impugned order of Respondent 1 liable to be set aside – *Held*, surcharge proceedings were initiated based on inspection conducted under Section 82 of Act – When surcharge proceedings was based on audit report or enquiry under Section 81 of Act or Inspection under Section 82 of Act or Inspection of goods under Section 83 of Act, Respondent must furnish said report to person or persons against whom surcharge proceedings, initiated – Failure to furnish such document vitiates entire proceedings – Whether person seeks such report or not, Enquiry Officer and Society must furnish report to person against whom surcharge proceedings was initiated – Petitioner has mentioned before Respondent 1 about non-furnishing of inspection report – Respondent 1 failed to consider same and passed impugned order in surcharge proceedings – Respondents have not proved that only when Petitioner produced X Standard certificate and sought for promotion as Senior Clerk, he was promoted as senior Clerk on misrepresentation – District Judge failed to consider various contentions raised by Petitioner and without giving any reason, dismissed appeal – Impugned order of Respondent 1 liable to be set aside – Petition allowed. [*K. Natarajan v. Deputy Registrar of Co-op*]

(V.M. VELUMANI, J.)
2022-II-LLJ-290 (Mad)
LNINDORD 2022 MAD 444

SUSPENSION

Delay in serving memorandum of charge-sheet – Reference by Single Judge was on account of two conflicting judgments delivered by Division Benches on challenge to order of suspension, hence this reference – Whether, order of suspension could be continued beyond period of three months – *Held*, order of suspension was not interfered with by Apex Court, though charge-sheet in said case filed after three months – Judgment of Apex Court in specified case did not lay down absolute proposition of law that order of suspension could not be continued beyond period of three months, if memorandum of charge-charge-sheet has not been served within three months, or served without reasoned order of extension – Judgment in another specified case, has no reference to earlier judgments of co-equal strength and was thereby rendered *per incuriam* – Issue of challenge to order of suspension should be analyzed on facts of each case, considering gravity of charges and rules applicable – Revocation of suspension with direction to employer to post *delinquent* in non-sensitive post could not be endorsed or directed as matter of course – It has to be based on facts of each case and after noticing reason for delay in serving memorandum of charges/charge-sheet – Reference answered. [*P. Kannan v. Comm'r for Municipal Admin*]

(MUNISHWAR NATH BHANDARI, CJ.)
2022-II-LLJ-346 (Mad)
LNINDORD 2022 MAD 565

TERMINATION

Exercise of Power – Petitioner-employee sought for quashing memo directing her to stop working as Asha Worker, and also for quashing letter of Respondent 5 directing to initiate fresh "Aam-Sabha" (general body meeting) for selection of new Asha Worker after cancelling selection of Petitioner, hence this petition – Whether *prima facie* case made out for directing Respondent to take back her to post of Asha Worker and extend all monetary benefits – *Held*, in-charge Medical Officer-Respondent 5 could

not exercise power of termination of Asha Worker – Once person appointed before terminating his or her service, he or she was entitled to participate in process of domestic enquiry and notice and other formalities – Said procedures have not been undertaken by competent authority – It stated that there were certain irregularities in process of selection and appointment to post of Asha Worker – Such decision has been taken by official Respondents behind back of Petitioner – Petitioner has made out *prima facie* case so as to interfere with impugned order – Impugned order liable to be set aside – Respondent directed to take back Petitioner to post of Asha Worker and extend all monetary benefits during intervening period from date of termination till reinstatement. [*Manju Devi v. State of Bihar*]

(P.B. BAJANTHRI, J.)
2022-II-LLJ-259 (Pat)
LNIND 2022 PAT 877

Imposition of Punishment – Petitioners challenged communication of Respondents stopping salary and also terminating their services, hence this petition – Whether, impugned action of Respondent in terminating services and stopping salary of Petitioners illegal, and unsustainable – *Held*, show cause notices reflect that only five days had been given to Petitioners for filing reply – Time provided for submitting reply could not be said to be reasonable time, and would not come within ambit of reasonable opportunity to Petitioners to defend them – No pleading in counter affidavit as to how said notices have been served upon Petitioners – Notices have been issued as afterthought and no notice has been served upon Petitioners – Termination order has been passed without following due procedure of law and order of stopping salary has also been passed without giving any opportunity of hearing to Petitioners – Action of Respondent in terminating services and stopping salary of Petitioners illegal and not sustainable in law – Impugned termination orders quashed with all consequential benefits directing Respondent to pay arrears of salary of Petitioners – Petition allowed. [*Pushpendra Singh v. State of UP*]

(SARAL SRIVASTAVA, J.)
2022-II-LLJ-405 (All)
LNIND 2021 ALL 30

TRANSFER ORDER

Opportunity to Participate – Petitioner-employee sought for directing Labour Court to permit him to represent Industrial Dispute relating to his transfer order and proceed with matter, hence this petition – Whether, Petitioner could be given opportunity to participate in proceedings before Labour Court to assist Court in respect of his challenge to transfer order – *Held*, Petitioner was dismissed from service on basis of two charges framed against him – Out of two charges, main charge was refusing to obey order of transfer amounting to insubordination – Other charge was staging protest on particular day near entrance making some demands – In such circumstances, decision to dismiss Petitioner could have taken for his refusal to obey transfer order – Allegation of insubordination point more towards Petitioner's raising dispute questioning validity of his transfer and consequently non-joining transferred place disobediently – Petitioner has to be given opportunity to participate in proceedings before Labour Court to assist Court in respect of his challenge to transfer order – Any decision by Labour Court in pending Industrial Dispute would have direct repercussion on other Industrial Disputes raised against his dismissal order – Petition allowed. [*M. Evanson v. IMPCOPS Ltd*]

(V. PARTHIBAN, J.)
2022-II-LLJ-462 (Mad)
LNINDORD 2022 MAD 561

WAGES

***Ad hoc* Payment –** Payment of Gratuity Act, 1972, Section 2(s) – Appellant challenged orders of High Court, Controlling Authority and Appellate Authority holding that *ad hoc* payment made pursuant to interim orders by this Court would form part of wages, hence these appeals – Whether, *ad hoc* payment made to workers pursuant to

interim orders passed by this Court in previous round of litigation could form part of wages within meaning of expression under Section 2(s) of Act – *Held*, party who was in enjoyment of interim order, was bound to lose benefit of such interim order when ultimate outcome of case goes against him – Because of fortuitous circumstance of Voluntary Separation Scheme coming into effect before transferred cases were finally dismissed by Court, creating illusion as though last drawn pay included this ad hoc payment – It was not possible to go against fundamental rule that benefits of interim order would automatically go when party who secured it, failed in final stage – Orders of High Court, Controlling Authority and Appellate Authority under Act holding that *ad hoc* payment made pursuant to interim orders by this Court will form part of wages liable to be set aside – Appeals allowed. [*FCI v. Rajesh Chandra Shrivastava*]

(V. RAMASUBRAMANIAN, J.)
2022-II-LLJ-241 (SC)
LNIND 2022 SC 245

JUNE

BENEFITS

Compensation *in lieu* of compassionate appointment – Petitioners challenged action of Respondents in not granting of lump-sum compensation *in lieu* of compassionate appointment as per Government Resolutions, hence these petitions – Whether Petitioners entitled for grant of lump-sum compensation on basis of pro rata services rendered by deceased employees – *Held,* there was no concept of permanent daily wager – Nothing on record to show that deceased employee was granted benefit of Resolution – Policy provided that when government servant dies while in service, if such employee earning salary from workcharge contingency fund at time of his/her demise, then there was no provision for grant of appointment – Clause 12.1 of Policy provided for compassionate grant of specified sum to nominated dependant of such employee, which was sanctioned to wife of deceased – Petitioners entitled to be extended benefits of Government Resolution – Respondents directed to consider case of Petitioners for grant of lump-sum compensation on basis of pro rata services rendered by deceased employees – Petitions allowed. [*Fatmabai Abdul Sumra v. State of Gujarat*)

(BIREN VAISHNAV, J.)
2022-II-LLJ-563 (Guj)
LNIND 2022 GUJ 4

Compensation – High Court while allowing Respondent appeal reversed judgment of Commissioner awarding compensation together with interest @ 12% per annum to wife and mother of deceased workman, hence this appeal – Whether, impugned judgment of High Court liable to be set aside – *Held,* Commissioner had returned basic findings of fact with reference to material placed on record – Claimants *i.e.,* wife and mother of deceased, had placed on record FIR, inquest mahazar, spot mahazar, charge-sheet and *post mortem* report along with FSL report – Commissioner, with reference to said evidence as also after analyzing rebuttal evidence adduced by Respondent-insurer, recorded findings which could not be said to be *perverse* of suffering from any such manifest illegality – Deceased employed as driver on vehicle, he was 30 years of age, and he died while on duty and his demise due to cardiac arrest was attributable to his job of driver – There had not been shown any other background aspect or any other clinching feature because of which death of workman, could be attributed to any other cause – View taken by Commissioner had been possible view of matter in given set of facts and circumstances – No reason for High Court to interfere with same – Impugned judgment passed by High Court set aside and that of passed by Commissioner stands restored – Appeal allowed. [*C. Manjamma v. Divisional Manager*]

(DINESH MAHESHWARI, J.)
2022-II-LLJ-542 (SC)
LNIND 2022 SC 235

Pension – Appellant's appeal before appellate Court dismissed upholding findings of trial Court that suit for declaration and for permanent injunction restraining Respondents 1 to 3 from disbursing 50% of pension amount to Respondent 4 dismissed as not maintainable, hence this appeal – Whether, Respondent 4 entitled to claim 50% of family pension in absence of evidence to effect, and material admissions with regard to family arrangement were taken into consideration – *Held*, Respondent 4 disabled as per report submitted by Medical College and therefore, he is entitled to get half of pension amount – As regards family arrangement, nothing was put in writing – Respondent 4 and his brother were entitled to share of their father's property and their grandmother's property – Main reason for Respondent 4 agreeing to proposal was prospect of his brother getting compassionate appointment – That could not take place due to sudden illness of Respondent 4 brother, and Respondent 4 was not in position to forgo his only source of income *i.e.*, 50% of family pension which he was already receiving till he attained age of 25 years – Respondent 4 entitled to receive 50% of family pension along with arrears from date of stoppage of pension – Judgments of Courts below deserves to be upheld – Appeal dismissed. [*Saroja v. Government of Tamil Nadu*]

(R. HEMALATHA, J.)
2022-II-LLJ-616 (Mad) LNIND 2022 MAD 385

Promotion – Petitioner-employee sought for quashing impugned order imposing punishment of stoppage of increment and to direct Respondents to promote him as Superintendent in existing vacancy, date on which his junior got promotion with all other attendant monetary and other consequential service benefits, hence this petition – Whether, Petitioner entitled for promotion in post of Superintendent from date on which his junior was promoted, and also entitled to 50% of monetary benefits and 50% notional monetary benefits – *Held*, Petitioner was eligible to be considered for post of Superintendent during specified period, and Respondent's bounden duty was to consider Petitioner's name during that period – Respondents ought to have invoked discretionary power and considered claim of promotion – Disciplinary authority had also recommended through proceedings placing Petitioner in Serial No. 1 – Petitioner has not worked in that place, but Respondents have deliberately not granted promotion – Petitioner entitled to 50% of monetary benefits and 50% notional monetary benefits – Respondents directed to grant promotion to Petitioner in post of Superintendent from the date on which his junior was promoted and grant 50% of monetary benefits and 50% notional monetary benefits – Petition allowed. [*M. Ganesan v. Managing Director, TNCSC*]

(S. SRIMATHY, J.)
2022-II-LLJ-630 (Mad) LNINDORD 2022 BMM 521

Provident Fund and Gratuity – Industrial Disputes Act, 1947 – Tamil Nadu Co-operative Societies Act, 1983, Section 82 and 87 – Petitioner-employee's petition before Single Judge disposed of directing Respondents 2 and 3 to consider representation of Petitioner, and to settle terminal benefits, hence this appeal – Whether, act of Appellants in withholding amount in garb of payment of excess amount towards salary was permissible – *Held*, though method of appointment has been prescribed under Act, 1983, service conditions of employees of Cooperative Societies governed by Labour Legislation under provisions of Act, 1947 – As employees started demanding revision of wages, which made Government to permit Cooperative Society to have access to settlement between Unions, so that revision of pay scales could be periodically extended – Petitioner had benefit of revision of pay scale based on such settlement – Petitioner has already attained age of superannuation and gratuity and Provident Fund amount could not be deprived on ground that there was action contemplated to recover amount under Sections 82 and 87 of Act – Order of Single judge, directing Appellants to settle terminal benefits with interest perfectly valid, needs no interference by this Court – Appellants directed to disburse Provident Fund and gratuity amount payable to Petitioner, together with interest at rate of 10% per annum from date of retirement – Appeal dismissed. [*Reg. of Co-op. Societies v. R. Paneerselvam*]

(S. VAIDYANATHAN, J. AND MOHAMMED SHAFFIQ, J.)
2022-II-LLJ-636 (Mad) LNIND 2022 MAD 1662

DISMISSAL

Misconduct – Appellant-employee dismissed from service on ground of misconduct – Appellant's petition and appeal was rejected – Appellant's revision before Joint Registrar disposed of revising punishment to one of demotion as Assistant Secretary – Government confirmed order of Joint Registrar – Appellant's petition before writ Court dismissed, hence this appeal – Whether, order of punishment liable to be set aside – *Held*, writ Court erred in dismissing writ petition on sole ground that Appellant had given undertaking not to challenge order of Joint Registrar – Order of writ Court liable to be set aside – Show-cause notice was issued by Board of Respondent 3 Bank, and Board has dropped entire proceedings – Proceeding that commenced with charge memo was without jurisdiction – Authorities have failed to advert to this aspect – Even assuming that proceedings initiated by charge memo were valid, in absence of any provision in bylaws of Society requiring employee to give immovable property as job security, fact that Appellant has furnished sale deed, could not be construed as misconduct – Even Government has found that there was no such requirement – It also not stated that under what circumstances, sale deed was handed over to Respondent 3 Bank – Order of punishment liable to be set aside – Appeal allowed. [*Dr. Philip Jeya Singh v. Govt. of TN*]

(R. SUBRAMANIAN, J AND N. SATHISH KUMAR, J.)
2022-II-LLJ-627 (Mad)
LNIND 2022 BMM 1000

Misconduct – Petitioner-employee sought for quashing impugned order of dismissal from service, and to direct Respondents to reinstate him in service with backwages and all attendant benefits, hence this petition – Whether, impugned order of dismissal from service liable to be set aside – *Held*, 54 kilos of rice has not come from specified Fair Price Shop – Respondents have not proved that Petitioner-*delinquent* has sold rice in black market – Petitioner has not explained for 24 kilos of rice where it shown as deficit and *delinquent* has paid said amount for deficit stock – This would amount to negligence on part of *delinquent* – Petitioner has acted in negligent way and punishment of certain sum was also paid – Impugned order of dismissal from service liable to be set aside – Respondents directed to pay entire terminal benefits eligible to *delinquent*, and certain sum deducted from his terminal benefits – Petition allowed. [*M. Rajan v. Reg. of Co-op. Societies*]

(S. SRIMATHY, J.)
2022-II-LLJ-623 (Mad)
LNINDORD 2022 BMM 574

Termination – Co-operative Societies Act – Respondent Management petition before writ Court allowed setting aside award of Labour Court directing reinstatement of Appellant-employee with continuity of service and backwages, hence this appeal – Whether, impugned order of writ Court liable to be set aside – *Held*, order of dismissal with retrospective effect from date of suspension is unknown to service law – Writ Court has lost sight of fact that Appellant being Clerk, was subordinate to Secretary and Secretary was holding dominant position and was able to influence will of Appellant – Employer was Co-operative Society in which, Secretary wields lot of power than in case of other banking institutions – Punishment of dismissal from service for proven charges, shockingly disproportionate – Even under provisions of Act, Secretary of Co-operative institution was in key position and other employees have to be subservient to him and they could not take call independently – Writ Court committed error in holding that as employee of banking institution, Appellant must have reported misdeeds of Secretary to higher-ups – Punishment of dismissal from service modified into one of compulsory retirement from date of order imposing punishment – Appellant would be entitled to all monetary benefits as he has been compulsorily retired on specified date – Impugned order of writ Court liable to be set aside – Appeal partly allowed. [*M. Dinakaran v. Cumbum Urban Co-op. Society*]

(R. SUBRAMANIAN, J AND N. SATHISH KUMAR, J.)
2022-II-LLJ-611 (Mad)
LNIND 2022 BMM 692

EMPLOYMENT

Absorption – Industrial Disputes Act, 1947, Sections 2(oo), 18(3)(d) – LIC Act, 1956 – Constitution of India, 1950, Articles 14 and 16 – Life Insurance Corporation of India (Staff Regulations), 1960 – Tribunal passed award by directing absorption of temporary *badli* workers on same terms as Tulpule and Jamdar Awards, with some modifications -Respondent LIC issued advertisement calling for applications from workers who were employed as *badli*-temporary-part-time workers in its establishment, in terms of eligibility criteria determined by award – This led to institution of contempt proceedings – Petitions instituted by Respondent LIC challenging judgment in review by restricting award of back-wages to 50 per cent rejected, hence these applications and petitions – Whether, workers could make claim for absorption *ipso jure* under Section 18(3)(d) of Act, 1947 – *Held*, termination of service of Appellant was held not amounting to retrenchment even when clause (bb) had not been introduced in Section 2(oo) of Act, 1947 – Employment in capacity of *badli*-part-time workers was not provided in Regulations, and there was no specific nomenclature of that nature in Regulations – Workers, who have been recruited to post on specified date could not make claim for absorption *ipso jure* under Section 18(3)(d) of Act, 1947 – Respondent LIC as statutory corporation bound by mandate of Articles 14 and 16 of Constitution – Fresh verification of claims of workers shall be carried out – All persons who were found to be eligible should be entitled to compensation – Applications and Petitions disposed of. [*Ranbir Singh v. SK Roy*]

(DR. DHANANJAYA Y CHANDRACHUD, J.)
2022-II-LLJ-481 (SC)
LNIND 2022 SC 296

Conferment of Permanent Status – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 – Factories Act, 1948, Sections 2(m) and 2(3)(a) – Municipal Solid Wastes (Management and Handing) Rules, 2000 – Inspector of Labour by its order directed conferment of permanent status on all employees – Writ petition filed by Corporation challenging orders of authority dismissed, and writ petition filed by workmen seeking *Mandamus* directing implementation of orders of authority allowed, hence these petitions and appeals – Whether, Act, 1981 would apply to Appellant Corporation and authority constituted under Act, 1981 could direct conferment of permanent status on sanitary workers appointed by Corporation – *Held*, collection of garbage for disposal by itself would amount to manufacturing process – Corporation would be factory within meaning of Section 2(m) of Act, 1948, it would automatically answer description of 'industrial establishment' as defined under Section 2(3)(a) of Act, 1981 – No reason to exclude applicability of enactment to statutory corporation and other *quasi*-Government bodies – Act, 1981 confers power on Inspector of Labour to direct permanency of employees who had worked for more than 480 days in two calendar years – Rules would show that municipal authority burdened with responsibility of implementation of provisions of rules and therefore, collection and disposal of wastes was not temporary phenomenon – Orders of Writ Court and orders of Inspector of Labour conferring permanent status on workmen deserves to be confirmed – Writ Appeals and Writ Petitions dismissed. [*Madurai Corp. v. Inspector of Labour*]

(R. SUBRAMANIAN, J AND N. SATHISH KUMAR, J.)
2022-II-LLJ-659 (Mad)
LNIND 2022 BMM 846

Conferment of Permanent Status – Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 – Petitioner sought for directing Respondents to treat them as having been made permanent with effect from specified date and pay them all consequent back wages and grant them further promotions reversing their seniority, hence this petition – Whether, Petitioners entitled for grant of permanent status with effect from specified date – *Held*, Authorities under Act had passed orders, conferring permanent status to these Petitioners, with effect from specified date – This order came to be confirmed by this Court, and Supreme Court – In view of these Court proceedings, order of Authority has reached its finality and it could not be superseded through board proceedings – When petitioners had requested Management to confer permanent status with effect from specified date,

same was rejected through impugned order stating that they would be entitled for permanency from date of their appointment as helpers – Such conferment of permanent status from date succeeding date ordered by Authority and placing reliance on board proceedings, not sustainable – Impugned order passed by Respondents liable to be quashed – Respondents directed to pass orders granting permanent status to each of Petitioners with effect from specified date, and grant them all consequential service and monetary benefits, including continuity of service – Petition allowed. [*A. Valarmani v. Tamil Nadu Generation*]

(M.S. RAMESH, J.)
2022-II-LLJ-551 (Mad)
LNINDORD 2022 MAD 1221

Employer-Employee Relationship – Petitioner-Appellant's petition before Single Judge dismissed upholding order of Respondent 1 holding that Respondents-employee 2 to 22 were working under control of Appellant company, and they should be made permanent with effect from specified date with all consequential benefits, hence this appeal – Whether, impugned order of Respondent 1 liable to be set aside – *Held*, Appellant terminal had suspended activities of Respondents and no activities, except house-keeping, clearing vegetation inside and outside terminal being carried out by contractors – Respondents 2,4,7,9,10,13,14,15,20 and 21 were working as contractual workmen of private contractor in said terminal whenever need arises – Respondents 2 to 22 were working only under contractor but, not under Appellant – Without any documentary proof, Respondents 2 to 22 were declared as workers – No oral or documentary evidence produced to substantiate their claims that these workers directly employed or paid by Appellant Corporation – No relationship of master and servant established – Respondent 1 by issuing impugned order acted beyond its jurisdiction and same was wrongly confirmed by Single Judge – Impugned order of Respondent 1 liable to be set aside – Right forum to decide issue between Appellant and Respondent was Industrial Tribunal, not Respondent 1 – Appellant and Respondent directed to approach Industrial Dispute Tribunal for appropriate relief for fresh disposal – Appeal allowed. [*IOCL v. Deputy Chief Inspector of Factories*]

(T.V. THAMILSELVI, J.)
2022-II-LLJ-647 (Mad)
LNIND 2022 MAD 1862

Reinstatement with Continuity of Service – Labour Court *vide* its judgment held that Respondent Corporation had engaged in unfair labour practice and quashed dismissal order and granted reinstatement of Petitioner-employee with continuity of service and all consequential benefits – Industrial Court dismissed revision application of Petitioner and partially allowed revision application of Respondent Corporation setting aside judgment of Labour Court with direction to remand matter back to Labour Court to determine issue of *quantum* of punishment, hence this petition – Whether, judgment passed by Industrial Court liable to be set aside – *Held*, finding returned by Labour Court was on basis of cogent and material evidence on record – Finding of Industrial Court in revision proceedings that it was not expected for party to lead evidence beyond shadow of reasonable doubt and examine eye witness to corroborate circumstantial evidence was not correct finding – Both ATI and Petitioner in heat of moment had caught hold of each other, abused each other and also threatened each other – Evidence on record did show unilateral involvement of Petitioner in incident – Reason for denial of back wages by Labour Court was adequate punishment for Petitioner in respect of incident – Judgment passed by Industrial Court in revision proceedings set aside, and that of passed by Labour Court partly allowing complaint, upheld –Petitioner entitled to reinstatement with continuity of service and all consequential benefits – Petition allowed. [*Shankar M. Gowehar v. Divisional Transport Officers*]

(MILIND N. JADHAV, J.)
2022-II-LLJ-693 (Bom) LNIND 2022 BOM 263

Reinstatement with full Back Wages – Tribunal by impugned order set aside punishment of discharge and directed Respondent 2 Bank to reinstate Appellant-employee with full back wages, continuity of service and all other benefits – Respondent 2 bank petitions before Single Judge allowed by quashing award passed by Tribunal, hence this appeal – Whether, impugned order passed by Single Judge liable to be set aside – *Held*, documents filed by Bank were all Xerox copies and they were marked without any oral evidence – Tribunal has rightly held that punishment of discharge from service was without any justification, and no loss caused to Bank on account of transaction alleged against Appellant – No oral and documentary evidence adduced by Bank to substantiate charge no.7 – Therefore, without any evidence, charge no.7 has to fail – When account holder was traced out, he credited certain sum in his account and thereafter, he authorized Appellant to rectify said mistake committed by her – Appellant held account of said account holder sans any authority – Such negligence committed by Appellant would fall under minor misconduct as per Clause 7(C) – Award passed by Tribunal was well within ambit of law, and same could not be quashed by Single Judge – Impugned order passed by Single Judge set aside and award passed by Tribunal deserves to be confirmed – Respondent 2 Bank directed to reinstate Appellant with full back wages and all other attendant benefits – Appeal allowed. [*D. Suganthi v. Presiding Officer, CGIT-CUM-LC*]

(T.V. THAMILSELVI, J.)
2022-II-LLJ-651 (Mad)
LNIND 2022 MAD 1856

MISCONDUCT

Quashing of Show Cause Notice and Charge-sheet – Central Civil Services (Pension) Rules 1972, Rule 9 – Show cause notice issued to Petitioner-employee's for certain irregularities of misconduct done during his service period with Respondent no.1, and memorandum of charges issued reiterating imputations and allegations made in the showcause notice – Petitioner sought for quashing show cause notice and charge-sheet, hence this petition – Whether, show cause notice and charge-sheet issued to Petitioners for certain irregularities of misconduct liable to be quashed – *Held*, Petitioner's appointment under Indian Institute of Technology was not reemployment but fresh appointment – Indian Institute of Technology was not governed by old GPF-cum-Pension Scheme – Petitioner was relieved by Institute for Plasma Research after obtaining technical resignation – In case where Central Government employee shifts an autonomous body pursuant to open advertisement and where he gets *pro rata* retirement benefits, it could not be treated as reemployment – Appointment of Petitioner to post of Deputy Registrar in Indian Institute of Technology would certainly not amount to reemployment within meaning of Rule 9 of Rules – Misconduct committed while in service before retirement and misconduct committed in service during period of reemployment were treated separately – Petitioner was not reemployed, event for which charges were framed for misconduct *i.e.* more than four years before event and for which no sanction of President be obtained – Charge sheet held to be without authority of law and was liable to be quashed – Petition allowed. [*Hradesh Kumar Sharma v. Ins. Of Plasma Research*]

(BIREN VAISHNAV, J.)
2022-II-LLJ-584 (Guj)
LNINDU 2022 GUJ 2

REINSTATEMENT INTO SERVICE

Maintainability of Petition – Tamil Nadu Co-operative Societies Act, 1983, Section 153 – Constitution of India, 1950, Article 21 – Appellant-employee's representation to Society-employer seeking reinstatement into service in view of Section 77(4) of Act, rejected – Appellant-employee's writ petition before Single Judge against Co-operative Society dismissed as not maintainable, hence this appeal – Whether, judgment of Single Judge dismissing writ petition as not maintainable, justified – *Held*, writ against Co-operative Society would lie only under certain circumstances – Every order affecting service of workman would not automatically

amount to infringement of his right under Article 21 of Constitution, enabling him to move Court – When service rules of Act and provisions of Act provide for remedy under Section 153 of Act, Writ Court would not entertain writ petition challenging orders relating to service of employees in Co-operative Societies – Right to form Co-operative Society has been recognized as fundamental right and nothing more – No ground to interfere with judgment of Single Judge dismissing writ petition as not maintainable – Appeal dismissed. [*P. Manimaran v. MD, Co-operative Bank Ltd*]

(R. SUBRAMANIAN, J AND N. SATHISH KUMAR, J.)
2022-II-LLJ-614 (Mad)
LNIND 2022 BMM 926

SUSPENSION

Retirement Benefits – Petitioner-employee sought for quashing impugned order of suspension, and to direct Respondent to reinstate him in service with immediate effect with all consequential benefits, hence this petition – Whether, impugned order of suspension liable to be quashed – *Held*, payment of subsistence allowance, being statutory right vested with Petitioner to claim amount, has been denied even after alleged knowledge of criminal case – When Labour Court had found that objections of Respondent-Management that they were not aware of acquittal order, could not be sustained, Petitioner would be entitled to receive subsistence allowance – When Respondent-Management had not revoked suspension order of Petitioner, but had chosen to revoke suspension order of co-*delinquent*, who had faced similar suspension order, period of his suspension liable to be treated as duty for all purposes – Petitioner would be entitled for entire service and monetary benefits during period of his suspension – Petitioner had now reached age of superannuation and therefore he would be entitled for all service and monetary benefits including pensionary benefits – Impugned order of suspension passed by Respondent-Management liable to be quashed – Respondent-Management directed to settle entire retirement benefits to Petitioner, along with pensionary benefits and subsistence allowance – Petition allowed. [*R. Veerakumar v. TN Minerals Ltd*]

(M.S. RAMESH, J.)
2022-II-LLJ-608 (Mad)
LNINDORD 2022 MAD 982

TERMINATION

Opportunity of Hearing – Petitioner-employee appointed as Computer Technician terminated from her service without any notice, hence this petition – Whether, impugned notice of termination liable to be set aside – *Held*, no evidence that two notices alleged to have been issued to Petitioner were received by her – No reference to these notices in impugned letter of termination – College waited for one year from last notice before terminating service of Petitioner – Petitioner was not given any opportunity to answer to charges made against her by Governing Body – By Resolution, Governing Body reiterated their decision to terminate service of Petitioner and made it known to her after specified months – College also failed to afford reasonable opportunity to Petitioner to present her case before drastic penalty of termination was taken against her – Petitioner's repeated representations for payment of her salary, increment and other terminal benefits have not been addressed by College – Petitioner raised specific questions by her letter with regard to daily wages payable to her and other statutory benefits which she was entitled to – College has not come up with any documents to show that Petitioner's questions were answered – College took summary decision to terminate Petitioner's service by way of cryptic and arbitrary letter without giving opportunity of hearing to her – Impugned notice of termination set aside and College and other Respondents restrained from giving any further effect to impugned notices – Petition allowed. [*Soma Sarkar v. State of WB*]

(MOUSHUMI BHATTACHARYA , J.)
2022-II-LLJ-538 (Cal) LNIND 2022 CAL 322

WAGES

Benefit of Protection of Pay-rank – Industrial Disputes Act, 1947, Section 47 – Tribunal in context of Section 47 of Act, despite taking note of fact that Petitioner-employee had suffered disability during course of his service, answered reference in negative, holding that Petitioner not entitled to any relief, hence this petition – Whether, impugned award passed by Tribunal liable to be quashed – *Held*, benefit of protection of pay available to Petitioner under Section 47 of Act was independent statutory protection and it could not be taken away – By applying protection of pay-rank guaranteed under Section 47 of Act, Petitioner could not have been brought down to lower pay scale, because he suffered disability during course of his service – Tribunal although, did refer to provisions of Act, it got confused between necessity of certificate showing disability to extent of 40% in context of entry into service claimed by person suffering from disability, with protection available to employee, who suffered disability during course of his service – CGIT answered reference in negative against Petitioner because of confusion – Impugned award passed by CGIT liable to be quashed directing that Respondent company should pay to Petitioner difference of wages by restoring his pay scale as Mechanical Fitter (Category-IV) – Petition allowed. [*Gunwanta Govinda v. Chief General Manager*]

(MANISH PITALE, J.)
2022-II-LLJ-531 (Bom)
LNIND 2022 NGP 39
