

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 10402 OF 2013 (L-RES)

BETWEEN:

A.S. UMESHA,
S/O A H SRIKANTIAH,
AGED ABOUT 50 YEARS,
RESIDING AT MIG 55,
ANIRUDH, KHB COLONY,
KALLAHALLI, VINOBANAGAR,
SHIMOGA-577204.

...PETITIONER

(BY SRI RAKSHITH JOIS Y P, ADVOCATE FOR
*SRI SHOWRI H R, ADVOCATE)

AND:

THE MANAGEMENT,
M/S PEARLITE LINERS PVT LTD.,
P B NO.100, NEW THIRTHAHALLI ROAD,
SHIMOGA-577201,
REPRESENTED BY ITS
MANAGING DIRECTOR.

...RESPONDENT

(BY SRI SOMASHEKAR, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE LOWER COURT RECORDS PERTAINING TO SPECIAL APPLICATION NO.2/10 IN THE FILE OF INDL TRIBUNAL MYSORE AND ID NO.6/10 FROM THE LABOUR COURT MANGALORE (SHIMOGA CAMP) AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09TH FEBRUARY, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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vide chamber order dated 10.04.2026.*

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Location:
HIGH
COURT OF
KARNATAKA



CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

The petitioner-workman has assailed the order dated 23.09.2011 (Annexure-N) passed by the Industrial Tribunal, Mysore (for short, "the Tribunal") in Serial Application No.2/2010. Said order allowed the application under Section 33(2)(b) of the Industrial Disputes Act, 1947 (for short, "the Act, 1947"), filed by the employer seeking approval of the penalty of dismissal of the petitioner-workman.

2. The petitioner also assailed the award dated 22.12.2011 (Annexure-P) passed by the Labour Court, Mangaluru (Shivamogga Camp) in I.D.A No.6/2010, whereby the claim petition filed under Section 10(4A) of the Act,1947 is dismissed.

3. The petitioner further challenged the enquiry report dated 06.01.2010 at Annexure-F (wrongly shown as dated 23.07.2008 in the Writ Petition prayer) and the order of dismissal dated 10.05.2010 (Annexure-J) passed by the respondent-employer.

4. The petitioner seeks reinstatement with full backwages and all consequential benefits.

Petitioner's Case in brief:

5. On 03.07.2008, "Bharat bundh" was called by certain organizations. The day's work was suspended around 11 a.m. as certain group of people (not the employees of the respondent-Company, but outsiders) demanded closure of work for the day. At about 11:00 a.m., the respondent-Management issued a notice declaring closure of the factory for the day and directed the workmen to attend duty on immediate Sunday, i.e., 06.07.2008, as a compensatory working day.

6. Many workmen who were attending the work from 6 a.m. and 9 a.m. raised grievance about the Management's decision to suspend the work for the day and directing the workmen to attend duty on Sunday, i.e., 06.07.2008, as a compensatory working day.

7. The petitioner and another M.S.Shashikumar, both office bearers of the Union, raised a grievance with the Management on behalf of the workmen, particularly those who had already reported for duty in the morning shifts commencing at 6:00 a.m. and 9:00 a.m.

8. On 04.07.2008, the petitioner was placed under suspension and was served with a notice alleging misconduct. A charge-sheet dated 23.07.2008 was issued alleging violation of the Standing Orders. The petitioner submitted his explanation. A domestic enquiry was conducted, culminating in a finding of misconduct. A second show cause notice was issued, to which the petitioner replied. Thereafter, by order dated 10.05.2010, the petitioner was dismissed from service.

9. Since an industrial dispute was already pending, the employer filed an application under Section 33(2)(b) of the Act, 1947 in Sl. Application No.2/2010 seeking approval of the dismissal. Simultaneously, the petitioner-employee raised an industrial dispute under Section 10(4A) of the Act, 1947, in I.D. No.6/2010. The Tribunal in Sl. Application No.2/2010 granted approval for dismissing the workman, and the Labour Court dismissed the petitioner-workman's claim.

Respondent's Case in brief:-

10. The respondent-Management contends that the petitioner, along with another workman, instigated the workforce to oppose the Management's decision to treat

03.07.2008 as a weekly rest day and 06.07.2008 as a compensatory working day.

11. It is alleged that a group of persons (not the employees of the respondent Company, but outsiders) who were insisting for closure of factory on account of Bharat Bundh forcibly entered the factory premises, and the petitioner actively instigated such entry and confronted the management. Respondent further alleged that the petitioner obstructed the General Manager's vehicle and insisted for declaration of 03.07.2008 as a paid holiday and refused to accept 06.07.2008 as a working day.

12. According to the Management, such acts constituted grave misconduct, warranting dismissal, and the same has been duly upheld by the Tribunal and the Labour Court.

13. Learned counsel for the petitioner contends that:

- (i) The findings of misconduct are not supported by reliable evidence;
- (ii) Material discrepancies have been ignored;
- (iii) The petitioner merely espoused legitimate grievances of workmen, as a union leader;

- (iv) The action of the Management amounts to victimization; and
- (v) In any event, the punishment of dismissal is grossly disproportionate.

14. Learned counsel for the petitioner relied on the following judgments:-

- (a) *Rama Kant Misra Vs State of Uttar Pradesh and others*¹**
- (b) *Ved Prakash Gupta Vs Delton Cable India (P) Ltd.*²**
- (c) *Color-Chem Ltd. Vs A. L Alaspurkar*³**
- (d) *Collector Singh Vs. L.M.L Ltd Kanpur*⁴**

15. Defending the impugned orders, learned counsel for the respondent submits that:

- (i) The misconduct is grave and duly proved in a fair and proper enquiry;
- (ii) The petitioner instigated unlawful conduct and facilitated entry of outsiders;
- (iii) Concurrent findings cannot be interfered in supervisory jurisdiction; and

¹ (1982) 3 SCC 346

² (1984) 2 SCC 569

³ (1998) 3 SCC 192

⁴ (2015) 2 SCC 410

(iv) No perversity is demonstrated.

16. Learned counsel for the respondent relied on the following judgments:-

- (a) John D' Souza Vs. Karnataka State Road Transport Corporation⁵**
- (b) Karnataka State Road Transport Corporation Vs Raju⁶**
- (c) Management of West Bokaro Colliery of TISCO Ltd. Vs Ram Pravesh Singh⁷**
- (d) Mahindra and Mahindra Ltd. Vs N.B Naravade and others⁸**
- (e) Hombe Gowda Education Trust and others Vs. State of Karnataka and others⁹**
- (f) National Engineering Industries Ltd. Vs State of Rajasthan and others¹⁰**
- (g) Chairman, State Bank of India and others vs All Orissa State Bank Officers Association and others¹¹**
- (h) President Labour Organization of HAL Vs The Management of Hindustan Aeronautics Ltd.¹²**
- (i) Karnataka State Road Transport Corporation Vs. A. Ramanna¹³**

⁵ (2019) 18 SCC 47

⁶ MANU/KA/9081/2019

⁷ (2008) 2 SCC 729

⁸ (2005) 3 SCC 134

⁹ (2006) 1 SCC 430

¹⁰ (2000) 1 SCC 371

¹¹ (2002) 5 SCC 669

¹² ILR 2005 KAR 4163

(j) North East Karnataka Road Transport Corporation Vs. M. Nagangouda¹⁴

(k) J.K Synthetics Ltd. Vs. K.P Agarwal and others¹⁵

17. The Court has considered the judgments cited and has kept in mind the principles laid down.

18. The Court has considered the rival submissions and perused the material on record.

19. The Tribunal, while granting approval under Section 33(2)(b) of the Act, 1947, has recorded a finding that the domestic enquiry was fair and proper.

20. The Labour Court has also noted that the petitioner conceded the fairness of the enquiry.

21. The Labour Court has examined the plea of victimization in the light of settled principles referred to in the award and rejected the petitioner's claim.

22. It is well settled that concurrent findings of fact, particularly on misconduct, ought not to be interfered with unless shown to be perverse or not supported by evidence.

¹³ **ILR 2001 KAR 2914**

¹⁴ **(2007) 10 SCC 765**

¹⁵ **(2007) 2 SCC 433**

23. The witnesses examined on behalf of the respondent-establishment would point to the confrontation by the petitioner and it is possible to conclude that the petitioner instigated the workmen not to leave the factory premises till the management accepts the workmen's demands. The evidence also leads to the conclusion that the petitioner also joined hands with the outsiders who had trespassed in to the premises. On consideration of the records, this Court finds no infirmity in the conclusion that the misconduct stands proved.

Proportionality of Punishment:

24. The question that remains is with regard to the proportionality of punishment.

25. The incident occurred around 11.30 a.m., after the management announced closure of the work on account of Bharat Bundh on 03.07.2008. By the time management announced the bundh, work had already commenced in 6 a.m, 9 a.m, and 10.30 a.m. shifts.

26. The grievance raised by the workmen, particularly those who had substantially worked, for declaration of the day as a paid holiday cannot, in itself, be said to be unreasonable in the given circumstances. The petitioner being the officer bearer

has engaged himself with the Management in airing the workmen's grievance.

27. However, the materials on record indicate that, the petitioner exceeded the limits of lawful bargain and obstructed the managerial personnel. The petitioner also appear to have joined with outsiders in insisting the Management to meet workmen's demand. Such acts constituted misconduct.

28. Learned counsel for the respondent would urge that the Award passed by the Labour Court relating to another employee is upheld in W.P. No.40217/2012. The Court is of the view that the fact that by the time the holiday was declared on 03.07.2008, the workers in the morning shift had already worked in the factory and they made a request to treat 03.07.2008 as a working day and the petitioner being an office bearer of the Union, brought to the notice of the Management the demand made by the said workmen is not considered by the Co-ordinate Bench of this Court in the aforementioned case. Hence, the Court is of the view that the said judgment cannot be treated as the binding precedent as it is not forthcoming from the said judgment that the aforementioned facts are brought to the notice of the Co-ordinate Bench.

29. The Court has also considered the ratio laid down in the judgments cited on behalf of the respondent.

30. It is true that the law is settled that the Court will not interfere with the penalty imposed by the employer unless it is shockingly disproportionate. However, if there are mitigating circumstances, then the Court may take into account the said factor as held in ***Mahindra & Mahindra (supra)***. It is noticed that in ***Mahindra & Mahindra (supra)***, the Apex Court has held in the facts of the said case no case is made out to interfere with the penalty of dismissal but the Apex Court has reiterated the principle that, if there are mitigating circumstances, the penalty can be reduced.

31. The fact that some of the employees had worked in the morning shift by the time the closure for the day was announced and thereafter, the workmen made a request to treat the said day as a working day and petitioner as the office bearer having approached the Management to discuss the grievances raised by the workmen to treat the said day as working day is one of the mitigating circumstances to take a lenient view.

32. At the same time, the surrounding circumstances—including the bundh, entry of outsiders, and the charged atmosphere—appear to have contributed to the escalation. The petitioner's role, though blameworthy, cannot be viewed in isolation from these contextual factors.

33. It is also relevant that the petitioner was about 45 years of age at the time of the incident and that no prior serious misconduct resulting in *major penalty* is attributed to him.

34. In the totality of circumstances, this Court is of the considered view that the punishment of dismissal is disproportionate to the gravity of misconduct. The ends of justice would be met by substituting the punishment of dismissal with a lesser penalty, so as to balance discipline with fairness and proportionality.

35. The paragraph No.2 of the order dated 23.09.2011 which has attained finality would indicate that Rs.14,000/- was paid to the workman which include one month's salary and *exgratia* amount of Rs.3,400/-. If it is so the petitioner was earning around Rs.10,000/- per month at the time of dismissal from service.

36. The workman was aged around 45 when he was removed from service. In other words, the petitioner had around 13 years of service before attaining superannuation. The Court has taken a view that the penalty of dismissal is disproportionate to the misconduct proved. However, the misconduct is established. That being the case, the petitioner is not entitled to full back wages and there cannot be any reinstatement as the petitioner has attained the age of superannuation. Under these circumstances, the petitioner is entitled to a reasonable compensation.

37. Taking into account his salary at the time of dismissal and the tenure of around 13 years left, and also taking into consideration that the petitioner is guilty of misconduct and also taking into account the additional statement of objection dated 08.03.2016 filed by the respondent/employer, and having regard to the fact that the petitioner will be getting some amount without having done any work for the respondent, the Court is of the view that Rs.3,00,000/- would be the reasonable compensation that the petitioner would be entitled to.

38. Hence the following:

ORDER

- (i) The Writ Petition is ***allowed-in-part.***
- (ii) The impugned award dated 23.09.2011 on the file of Industrial Tribunal, Mysore in Sl. Application No.02/2010 is set-aside in part.
- (iii) The findings on misconduct is confirmed.
- (iv) The petitioner is entitled to Rs.3,00,000/- (Rupees Three lakhs Only) towards compensation. The amount if not paid within 45 days from today shall carry interest @ 6% per annum from 26.02.2013 i.e., the date of filing of the Writ Petition till the date of payment.

Sd/-

**(ANANT RAMANATH HEGDE)
JUDGE**

BRN