



CNR: KAHC010082772020

NC: 2026:KHC:50027
WP No. 3691 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 3691 OF 2020 (L-RES)

BETWEEN:

SRI R SHIVASHANKARA
AGED ABOUT 43 YEARS
S/O RANGAPPA
NO.T4, 3RD FLOOR
GEM PLAZA, NO.66
INFANTRY ROAD
BANGALORE 560 001.

...PETITIONER

(BY SRI. MUKKANNAPPA S B., ADVOCATE)

AND:

THE MANAGEMENT OF YOUNG MEN'S
CHRISTIAN ASSOCIATION (YMCA)
NO.14, NRUPATHUNGA ROAD
BANGALORE 560 002.

...RESPONDENT

(BY SRI.G SUKUMARAN, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 20.04.2019 PASSED BY THE I ADDL. LABOUR COURT AT BANGALORE IN APPLICATION NO.5/2015 VIDE ANNEXURE-L AND CONSEQUENTLY ALLOW THE APPLICATION NO.5/2015 FILED BY THE PETITIONER AT ANNEXURE-G BEFORE THE I ADDL. LABOUR COURT AT BANGALORE.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA on 21-
09-2026





CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. This petition is filed calling in question the order dated 20.04.2019 passed by the Presiding Officer, I Additional Labour Court, Bangalore, in Application No.5/2015 (Annexure-L) filed under Section 33C(2) of the Industrial Disputes Act, 1947 (for short 'the Act') and consequently, allow the said application.

2. Brief facts of the case are that the petitioner was appointed as an Accounts Assistant by the respondent with a consolidated salary of Rs.1,200/- per month on 10.08.1993 and thereafter, his services came to be confirmed on 01.10.1998 and later promoted as an Accountant by an order dated 03.11.1998. Thereafter, respondent has dismissed the services of the petitioner from 01.04.2001 by order dated 31.03.2001. Being aggrieved by the said order, petitioner raised an Industrial Dispute before the Labour Court in ID No.95/2001. The Labour Court, by award dated 28.09.2004, set aside the



order of dismissal of petitioner from service and directed the respondent to reinstate the petitioner into service with continuity of service and all consequential benefits in full. The said award was given effect to on 07.12.2004.

2.1. Thereafter, on 18.01.2005, the petitioner submitted a representation to the respondent seeking implementation of the award. Since the award was not implemented, the petitioner approached the Labour Commissioner, who permitted him to prosecute the respondent for non-implementation of the award. Consequently, the petitioner filed a private complaint in PCR No.26643/2005 under Section 200 of the Code of Criminal Procedure, 1973, on 21.08.2005, which was subsequently registered as C.C.No.32214/2005 before the learned VI Additional Chief Metropolitan Magistrate, Bengaluru.

2.2. The petitioner also filed Contempt Petition No.C.C.(Civil)650/2005 before this Court. The said petition



came to be dismissed on 10.01.2006, granting liberty to the petitioner to avail the remedy available under the Act. Thereafter, the petitioner filed Application No.18/2007 under Section 33C(2) of the Act. The said application came to be allowed in part by an ex parte order dated 06.10.2008, directing the respondent to pay a sum of Rs.13,10,842/- to the petitioner. Subsequently, the respondent filed M.A.No.3/2009 seeking to recall the ex parte order. The said miscellaneous application was dismissed. Consequently, proceedings were initiated by the Deputy Labour Commissioner and the jurisdictional Tahsildar in Execution Petition No.172/2009 filed by the petitioner for attachment of the movable and immovable properties of the respondent.

2.3. In the meantime, the respondent filed W.P.Nos.13/2010 and 1098/2010 before this Court. During the pendency of the said writ petitions, this Court, by order dated 20.01.2010, stayed all further proceedings



and directed the respondent to pay backwages in terms of the award dated 28.09.2004 passed in I.D.No.95/2001 for the period from 31.01.2001 to 30.09.2004. The Labour Court was also directed to expeditiously dispose of M.A.No.3/2009. Accordingly, M.A.No.3/2009 was allowed and Application No.18/2007 was restored for fresh consideration. Upon hearing the parties, Application No.18/2007 came to be dismissed by order dated 29.02.2012.

2.4. Subsequently, W.P.Nos.13/2010 and 1098/2010 came to be disposed of by this Court by order dated 05.11.2013. It is not in dispute that the respondent has paid the backwages for the period from 31.01.2001 to 30.09.2004.

2.5. The grievance of the petitioner is with regard to non-payment of salary for the subsequent period. Accordingly, the petitioner filed the present Application No.5/2015 under Section 33C(2) of the Act, claiming full



salary for the period from 07.12.2004 to 20.01.2010 amounting to Rs.14,96,337.77/- and differential salary for the period from 21.01.2010 to 28.02.2015 amounting to Rs.7,99,073.24/-, aggregating to Rs.22,95,410.91/-. The said application came to be dismissed by order dated 20.04.2019. Aggrieved thereby, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner submits that Application No.18/2007 was confined only to the claim for back wages for the period from the date of termination till the date of the award. The present application, namely, Application No.5/2015, pertains to the subsequent period commencing from the date of the award until the date of reinstatement, i.e., from 07.12.2004 to 20.01.2010, apart from the claim for differential salary for the subsequent period. It is further contended that the Labour Court, while considering Application No.5/2015, has merely relied upon the earlier proceedings in Application No.18/2007 and the order



passed by this Court therein, without independently considering whether the petitioner was entitled to salary for the period claimed in the present application. It is further submitted that the Labour Court has failed to record any finding on the specific claim made by the petitioner. Hence, it is contended that the impugned order suffers from non-application of mind and is contrary to the material available on record.

4. Per contra, learned counsel appearing for the respondent submits that immediately after the award was passed, the respondent had addressed a communication to the petitioner calling upon him to report for duty, but the petitioner failed to join duty. It is further contended that, when the matter was pending before this Court in W.P.Nos.13/2010 and 1098/2010, this Court, by order dated 20.01.2010, had considered the issue relating to back wages and directed payment for the period from 31.01.2001 to 30.09.2004. Therefore, according to the learned counsel, the subsequent claim made by the



petitioner for payment of full salary for the period from 2004 to 2010 is not maintainable. It is submitted that the Labour Court, having regard to the earlier orders passed by this Court, was justified in dismissing Application No.5/2015.

5. Heard the learned counsel for the parties. Perused the writ papers.

6. It is not in dispute that the petitioner was appointed as an Accounts Assistant by respondent on 10.08.1993. It is also not in dispute that he has been dismissed from service from 01.04.2001 by order dated 31.03.2001. The said order has been set aside by the Labour Court in I.D.No.95/2001 by award dated 28.09.2004. Petitioner has filed an application in Application No.18/2007 under Section 33C(2) of the Act seeking payment of backwages.

7. Learned counsel appearing for the petitioner has submitted that the said application was only in respect of back wages from the date of dismissal, i.e., 01.04.2001,



till the award was passed on 28.09.2004. Application No.18/2007 was allowed by passing an ex parte order dated 06.10.2008. Being aggrieved by the ex parte order, the respondent filed W.P.Nos.13/2010 and 1098/2010 before this Court. The issue in the said writ petitions was in respect of the back wages claimed in Application No.18/2007.

8. The present Application No.5/2015 is filed for payment of full salary from 07.12.2004 to 20.01.2010. The Labour Court has discussed and relied upon the order passed by this Court in W.P.Nos.13/2010 and 1098/2010, which was in respect of Application No.18/2007. Only on the basis of the said order, the Labour Court has dismissed Application No.5/2015.

9. The Labour Court has not considered the prayer sought by the petitioner in Application No.5/2015, namely, whether he is entitled to full salary for the period from 2004 to 2010. Further, the Labour Court has also not



considered the contention taken by the respondent that the petitioner had been requested to join duty in the year 2004 itself. There is no finding forthcoming in respect of these aspects.

10. The Labour Court, while considering Application No.5/2015, was required to consider the specific claim made therein and also the defence taken by the respondent with regard to the petitioner having been called upon to join duty. The earlier proceedings in Application No.18/2007, by itself, could not be a substitute for consideration of the distinct claim made in the present application.

11. Therefore, in view of the above, this Court is of the opinion that the matter requires reconsideration and hence, the impugned order is liable to be set aside.

12. Accordingly, the following order:



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ORDER

- a) Writ petition is allowed.
- b) Order dated 20.04.2019 passed by the I Additional Labour Court, Bangalore, in Application No.5/2015 vide Annexure-L, is set aside.
- c) The Labour Court is directed to reconsider the Application No.5/2015 filed under Section 33C(2) of Industrial Dispute Act, in accordance with law, without being influenced by any observation made by this Court in this order.

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA on 21-
09-2026

**(H.T. NARENDRA PRASAD)
JUDGE**

DM
LIST NO.: 1 SL NO.: 47