



CNR: KAHC010115612022

NC: 2026:KHC:47519
WP No. 5684 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 5684 OF 2022 (L-KSRTC)

BETWEEN:

THE DIVISIONAL CONTROLLER,
KSRTC, TUMAKURU DIVISION,
TUMAKURU-572101.

...PETITIONER

(BY SMT. H.R.RENUKA, ADVOCATE)

AND:

SRI. LOKESH,
S/O. LATE ANJANAPPA,
AGED ABOUT 45 YEARS,
R/AT OPP. JMS COLLEGE,
JANATHA COLONY,
SHETTIHALLI ROAD,
TUMAKURU-572102.

...RESPONDENT

(BY SRI. SHEKAR L., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN
RELIEFS.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED FOR ORDERS ON 29.08.2026, THIS DAY, AN ORDER
IS PRONOUNCED AS UNDER:



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CAV ORDER

Smt.H.R.Renuka, counsel for the petitioner, and Sri.L.Shekar, counsel for the respondent, appeared in person.

2. The short facts are these.

The respondent was a driver in the Corporation and was placed on probation for 2 years in 2004. He remained absent from duty without permission or sanction of leave. The depot manager submitted a report regarding the unauthorized absence. He was issued with articles of charge alleging unauthorized absence from duty from 01.03.2005 to 12.07.2005. The respondent sought permission to report to duty and was permitted to do so pending disciplinary proceedings. He did not submit his reply to the charge sheet. Hence, the disciplinary authority committed the case for enquiry and appointed an inquiry officer.

The attendance details of the workman were examined, and it was learnt that he had not reported for duty. Accordingly, a letter dated 27.11.2005 was addressed to the Depot Manager to furnish the workman's attendance



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particulars. The Depot Manager submitted a report stating that the workman did not report for duty despite being permitted to do so.

The articles of charge dated 12.07.2005 was withdrawn by issuing the charge sheet dated 17.01.2006, alleging absence from 01.03.2005 onwards. The inquiry officer, who had earlier retired from service, was replaced, and another inquiry officer was appointed to conduct the inquiry. As the notice of enquiry was not served on the workman, the security officer visited the workman's residence. His mother stated that his whereabouts were unknown, as he had left the house after a fight at home. Hence, the security officer submitted a report stating that the notice of inquiry could not be served on the workman. The respondent was notified of the inquiry to be held on 07.04.2006 by way of a paper publication in Praja Pragath daily newspaper. The workman did not appear. The evidence of the management was recorded by placing the workmen ex-parte, and proceedings were sent through the security officer of the Corporation. The security officer stated that the respondent's mother had received the inquiry notice. She stated that she



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would hand it over to the workman. The security officer submitted a report to that effect. After conducting the inquiry in accordance with the regulations, the inquiry officer submitted his findings, holding that the charges were proved. The workman was issued a second show cause notice along with the inquiry officer's findings, and the respondent did not submit a reply to the second show cause notice. The history sheet disclosed that the workman was brought on probation on 15.01.2004. He remained absent from 01.03.2005 during the probation period, i.e., from 15.01.2004 to 01.03.2005, and remained absent on four occasions. He did not even complete his probation period.

The respondent was dismissed from service on 06.01.2007 on the charge of proved misconduct. Strangely, the workman filed a complaint before the Tribunal in 2014 in Complaint No.04/2014. The Corporation filed objections, raising all grounds, especially delay and laches, and contended that he is not a member of the KSRTC Federation, which raised the dispute in I.D.No.148/2005. The Tribunal held that the Corporation's domestic inquiry was not fair and proper. The



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Corporation led evidence on the merits, while the workman examined himself.

On adjudication of the complaint, the Tribunal partly allowed it, directing the Corporation to reinstate the respondent into service with continuity of service, consequential benefits from 10.01.2014, and without back wages. The Corporation challenged the Award in this petition on several grounds as outlined in the writ petition.

3. Counsel for the respective parties presented several contentions.

Submission on behalf of the Corporation: It is submitted that the respondent was dismissed from service in 2007. However, the workman filed a complaint only in 2014, resulting in a seven-year delay. Hence, the claim is barred by delay and laches. It is further argued that the Tribunal erred in concluding that the Corporation had not obtained approval under Section 33(2)(b) of the Industrial Disputes Act. The respondent failed to prove that he was a concerned workman in



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I.D.No.148/2005 or that he was a member of the union that raised the dispute.

It is submitted that the Tribunal is not justified in holding that the domestic inquiry conducted by the Corporation was unfair and improper. The respondent was placed on probation in 2004. Even during probation, he remained absent, thereby failing to complete his probationary period. It is contended that the workman did not render service for nine years, and therefore, the Tribunal erred in allowing the claim.

Despite the respondent's admission of unauthorized absence, the Tribunal erroneously relied upon medical certificates to condone such absence. Lastly, it is submitted that pursuant to an interim order, the respondent was reinstated, but he again remained absent and was dismissed from service on 22.12.2023. On these grounds, it is urged that the writ petition be allowed.

Counsel for the petitioner placed reliance on the following decision:



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*C JOSEPH V. THE DIVISIONAL CONTROLLER, KSRTC
MYSORE RURAL DIVISION, W.A.NO.1744/2015.*

Submission on behalf of the respondent: It is submitted that there is no prescribed time limit for raising a complaint under Section 33A of the Act. The respondent was a concerned workman in I.D.No.148/2005, and therefore, the Corporation was required to seek approval under Section 33(2)(b). Even assuming, for the sake of argument, that the respondent was not a member of the union, the award passed in I.D.No.148/2005 is binding on all employees of the Corporation, including the respondent. It is further contended that the Tribunal, upon an extensive consideration of the material on record, rightly moulded the relief. Urging additional grounds it is submitted that the writ petition is liable to be dismissed.

Counsel for the respondent placed reliance on the following decisions:

*NEW INDIA MOTORS (P) LTD., NEW DELHI V.
K.T.MORRIS, AIR 1960 SC 875.*



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*THE DIVISIONAL CONTROLLER (SOUTH), V.
SRI.VASANT.B JOGI, W.P.NO.105424/2023.*

4. I have heard the arguments advanced by both sides and carefully perused the papers.

5. The facts are sufficiently noted and need no repetition.

6. The following Points arise for consideration:

1. Whether the Tribunal is justified in holding that the domestic inquiry conducted by the Corporation was not fair and proper.

2. Whether the complaint filed by the workman in 2014, after a delay of seven years from the dismissal in 2007, is barred by delay and laches.

3. Whether the respondent was a concerned workman in I.D.No.148/2005 and whether the Corporation was required to obtain approval under Section 33(2)(b) of the Industrial Disputes Act.

4. Whether the Tribunal erred in relying upon medical certificates to condone unauthorized absence, despite the respondent's admission of such absence.



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5. Whether the Tribunal was justified in moulding the relief in favor of the respondent notwithstanding his prolonged absence and failure to complete probation.

7. **ON THE DOMESTIC INQUIRY:** It is undisputed that the respondent was an employee of the Corporation and was placed on probation for two years in 2004. But he remained absent without permission and sanction of leave. The Corporation conducted a detailed inquiry and dismissed him from service. However, the Tribunal held that the Corporation's domestic inquiry was neither fair nor proper. The order on the domestic inquiry is furnished in the writ petition as Annexure-N; a perusal of the same reflects that the Tribunal held that the inquiry was unfair and improper solely because it was conducted behind the back of the complainant. This is incorrect. The reason is simple and apparent. The articles of charge were issued alleging unauthorized absence. However, the respondent sought permission to report to duty and he was permitted to do so. But he did not report to duty. The workman did not submit his reply to the charge sheet. Consequently, the disciplinary authority committed the case for enquiry and



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appointed an enquiry officer. Examination of the attendance records revealed that the workman had not reported for duty. The authority sent a letter dated 27.11.2005 to the depot manager seeking attendance details, and the manager confirmed that the workman had not reported despite being permitted to do so.

The articles of charge dated 12.07.2005 was withdrawn, and a fresh charge sheet dated 17.01.2006 was issued, alleging continuous absence from 2005 onwards. Since the initial inquiry officer had retired, a new officer was appointed. As the inquiry notice could not be served, the security officer visited the workman's residence, where his mother stated that he was missing after a domestic quarrel. The inquiry notice was then published in the Praja Pragath Daily newspaper, informing him of the inquiry scheduled for 07.04.2006.

The workman failed to appear, and the management conducted the hearing ex-parte. Proceedings were sent through the security officer, who confirmed that the workman's mother had received the notice and intended to pass it on. After following the prescribed procedures, the inquiry officer found



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the charges substantiated. A second show-cause notice along with the findings was issued, but the workman did not reply. The history sheet showed that he was placed on probation in 2004, during which he remained absent and failed to complete probation. Based on the material on record, the respondent was dismissed from service on 06.01.2007 for proved misconduct. Hence, the Tribunal's finding that the domestic inquiry was unfair and improper, on the ground that it was conducted behind the back of the workman, is wholly untenable. Therefore, the order on the domestic inquiry is liable to be quashed. This Court holds that the inquiry conducted by the Corporation is fair and proper.

8. ON DELAY AND LACHES; It is uncontested that the respondent was an employee of the Corporation and was placed on probation for two years in 2004. During this period, he remained absent without permission and sanctioned leave. The Corporation thereafter conducted a thorough inquiry and dismissed him from service on 06.01.2007.

The respondent remained silent for nearly seven years before filing a complaint in 2014. In my considered view, the



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Tribunal ought to have dismissed the complaint on the ground of delay and laches. The respondent's contention that there was no delay and that his approach in 2014 was justified cannot be accepted.

Once the workman was dismissed, he could not neglect his rights for seven years and thereafter seek redress before the Court. Such prolonged inaction renders the dispute stale and disentitles the respondent to relief.

9. **ON APPROVAL APPLICATION;** The Corporation contended that the respondent was not a concerned workman in I.D.No.148/2005, and therefore, there was no requirement to seek approval under Section 33(2)(b) of the Industrial Disputes Act. Conversely, the respondent asserted that he was a concerned workman in I.D. No.148/2005, and hence approval under Section 33(2)(b) was mandatory. He further argued that, even if he was not a member of the union, the award passed in I.D.No.148/2005 binds all employees of the Corporation, including him.



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Counsel for the workman pointed out paragraph No.10 of the decision reported in AIR 1960 SC 875, arguing that the workman cannot be limited only to those directly involved in the dispute. The term includes all workmen represented by the dispute, as well as those affected by the resulting award. Therefore, counsel argues that the award in I.D.No.148/2005 is binding on the workman, making him a concerned workman.

In reply, counsel for the Corporation submits that the respondent was brought on probation on 15.01.2004, worked only for 9 months, remained absent, and did not complete the probation period. Hence, his services were not confirmed. She contends that, since the respondent's services were not confirmed, he cannot be construed as a workman of the Corporation, much less as a workman concerned with I.D.No.148/2005. Therefore, the award passed in I.D.No.148/2005 will not benefit the respondent.

The Tribunal found that management failed to produce evidence of compliance with Section 33(2)(b). However, this conclusion is incorrect because no approval is needed. It is clear that the respondent's services were not confirmed, so he



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is neither a workman nor an employee of the Corporation. Established law states that the workman must prove he falls under I.D.No.148/2005 by showing he was a union member involved in the dispute. No evidence was provided to show the respondent was a union member. Therefore, he cannot rely on I.D.No.148/2005 to claim he is a concerned workman. Consequently, the Tribunal's ruling that Section 33(2)(b) was violated is not sustainable, and this Court confirms that no approval was necessary. The argument that the Corporation is barred from contesting the non-completion of probation in this writ petition must inevitably fail.

10. **ON THE MERITS OF THE CASE:** The respondent came under disciplinary proceedings for an act of misconduct that is unauthorized absenteeism. He did not participate in the domestic inquiry proceedings to prove his innocence, despite being allowed to report to duty.

However, in 2014, he filed a complaint after seven years of dismissal, attempting to justify his absence by claiming he was unwell, supported by two medical certificates submitted to the Tribunal. The Tribunal accepted his contention and



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pardoned the misconduct. This is untenable. In my view, the Tribunal erred in condoning the respondent's prolonged unauthorized absence on the strength of medical certificates which only cover two isolated dates. The respondent's admission of unauthorized absence, coupled with his failure to complete probation, militates against granting relief. The Tribunal's approach in moulding relief, despite these facts, is unsustainable.

The subsequent reinstatement pursuant to interim orders and the respondent's continued absence culminating in dismissal in 2023 further demonstrate his lack of diligence and commitment to duty. In such circumstances, the Tribunal's order cannot be upheld in toto.

The Judgment in W.P.No.105424/2023 is not applicable here because the respondent cannot invoke benefit of 2-A, given that he was dismissed on 06.01.2007, but the amendment was in 2010. Additionally, the Supreme Court's ruling in Prabhakar's case was not addressed in that writ petition.



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11. For the foregoing reasons, the writ of certiorari is ordered. The order dated 3rd day of August 2017 passed by the Tribunal on the domestic inquiry is quashed. Consequently, the award dated 22nd day of February 2021 passed by the Tribunal in Complaint No.04/2014 (In I.D.No.148/2005) is also quashed.

Counsel for the respective parties placed reliance on the decisions referred to supra. But I do not think that the law is in doubt. Each decision turns on its own facts. The present case is also tested in the light of the aforesaid decisions.

12. Resultantly, the writ petition is ***allowed***.

Because of disposal of the Writ Petition, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

**Sd/-
(JYOTI M)
JUDGE**

MRP
List No.: 1 Sl No.: 2