



CNR: KAHC010176372019

NC: 2026:KHC:48179-DB
WP No. 27195 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT PETITION NO. 27195 OF 2019 (L-RES)

BETWEEN:

1. SHRI H N GANGADHARAIHAH
S/O LATE NANJAPPA
AGED ABOUT 56 YEARS
CRANE OPERATOR/DRIVER
SOUTHERN RAILWAYS
DIVISIONAL OFFICE
MECHANICAL BRANCH,
BANGALORE-560023
& R/A DOOR NO.36
CHAMUNDESHWARI NAGAR
LAGGERE EXTENSION
GANAPATHI NAGAR
BANGALORE-560058

...PETITIONER

(BY SMT. SHARANYA.H.R, FOR
SRI. A N GANGADHARAIHAH., ADVOCATE)

AND:

1. SOUTH WESTERN RAILWAYS
REPRESENTED BY
THE DIVISIONAL PERSONNEL OFFICER
PERSONNEL BRANCH
BANGALORE-23

...RESPONDENT

(BY SRI.POOJAPPA.J, CGC)

Digitally
signed by
VASANTHA
KUMARY B
K
Location:
HIGH
COURT OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RELEVANT RECORDS AND QUASH THE IMPUGNED ORDER DATED 09.04.2019 PASSED BY CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL VIDE ANNEXURE-A ON APPLICATION IN CGA NO.4 OF 2013 U/S 33(c)(2) OF THE INDUSTRIAL DISPUTE ACT 1947 AS THE SAME IS NOT IN CONSONANCE WITH THE DIRECTIONS ISSUED BY THIS HON'BLE COURT IN EARLIER ROUND OF LITIGATIONS, ETC.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL ORDER

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present writ petition has been filed impugning the order dated 09.04.2019 passed by the Central Government Industrial Tribunal-cum-Labour Court in CGA No.04/2013 filed by the petitioner under Section 33-C (2) of the Industrial Disputes Act, 1941 (for brevity, 'the Act') praying that the petitioner/workman should be entitled for a sum of Rs.7,28,208/- with interest at the rate of 12% per annum from the date of the High Court Order dated 02.09.2009 to 07.05.2013.



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2. The petitioner joined the services of the South Western Railways, and was promoted as a train driver in the year 1993. He remained unauthorisedly absent, for which the departmental proceedings were conducted against him. Upon finding the charge of unauthorised absence proved, the Disciplinary Authority dismissed him from service vide order dated 01.03.1997. After his appeal got rejected, the petitioner raised a labour dispute. An award came to be passed on 08.04.2008, directing the respondent-Management to reinstate the petitioner into service without backwages, without continuity of service and consequential benefits. The said award came to be challenged by the petitioner as well as the respondent-Management by filing two separate writ petitions.

3. The learned Single Judge, vide common judgment and order dated 02.07.2009 passed in W.P.Nos.10733/2008 connected with 9294/2009 dismissed the writ petition filed by the respondent-Management. However, the writ petition filed by the petitioner was allowed-in-part and it was declared that the petitioner would be entitled to continuity of service for the purpose of terminal benefits only, while his claim for backwages



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was specifically rejected. Against the said judgment and order of the learned Single Judge, three writ appeals were filed, namely, W.A.No.4230/2009 connected with W.A.Nos.3312/2009 and 3311/2009.

4. The Division Bench in paragraphs 8 and 9 of its judgment and order held as under:

"8. The Management contended that on account of long period months absence, he is not entitled for reinstatement.

9. The learned Single Judge while appreciating the evidence of the parties and the ailment suffered by the employee, which caused during the course of employment found that the long period of absence is neither willful nor wanton and therefore, considering the length of service, passed the order for reinstatement. The fact that the workman sustained injuries to his left forearm during the course of his employment and underwent operation and he has developed some other ailment due to operation and injury not denied by the Employer. Considering the nature of injuries sustained by him and the other factors, the Labour Court and the learned Single Judge are justified in passing the order directing the South Western Railways to reinstate the employee without back wages, we are therefore see no



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grounds to interfere with the order passed by the learned Single Judge."

5. Thus, the learned Single Judge and Division Bench concurrently held that the petitioner was not entitled to backwages and he was entitled only to continuity of service for the purpose of terminal benefits. After the Division Bench dismissed the appeals, the petitioner approached the CGIT under Section 33-C (2) of the Act, claiming full backwages from 02.09.2009 to 07.05.2013. This claim was calculated at a monthly rate of Rs.15,171/-(comprising basic pay of Rs.7,210/-, DA of Rs.5,768/- and HRA of Rs.2,163/- and CCA of Rs.30/-). The CGIT having taken note of the order passed by the learned Single Judge and Division Bench has dismissed the said application.

6. Once the claim of the petitioner for backwages had been finally decided against him by the Division Bench, an application under Section 33-C (2) of the Act, for recovery of the backwages could not have been entertained. We, therefore, find no reason to interfere with the impugned order passed by



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the CGIT. Finding no merit in this petition, the writ petition is accordingly ***dismissed***.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

RKA
List No.: 1 Sl No.: 6