

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 55167 OF 2018 (L-RES)

C/W

WRIT PETITION NO. 2269 OF 2022 (L-TER)

IN W.P.NO. 55167 OF 2018

BETWEEN:

THE MANAGEMENT OF
M/S. G4S SECURE SOLUTIONS PVT. LTD.,
NO.5/13, 1ST MAIN ROAD,
VASANTHANAGAR,
BANGALORE-560 052.

PRESENTLY AT NO.744,
10TH A MAIN ROAD,
1ST STAGE, 4TH BLOCK,
HBR LAYOUT, HORAMAVU,
BANGALORE-560 043
REP. BY ITS HUB-ER-LEAD
MR. C SRINIVASAN.

...PETITIONER

(BY SRI PRADEEP KUMAR J, ADVOCATE)

AND:

MR. VEERABHADRAIAH,
AGED ABOUT 41 YEARS,
S/O. LATE SIDDARAMAIAH,
R/AT NO.144, RAGHAVENDRA CIRCLE,
LAVKUSH NAGAR, LAGGERE,
BANGALORE-560 058.

...RESPONDENT

(BY SRI G.V.P REDDY, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227

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by BELUR
RANGADHAMA
NANDINI

Location: HIGH
COURT OF
KARNATAKA

OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE AWARD DATED 8.11.2017 PASSED BY THE SECOND ADDITIONAL LABOUR COURT, BANGALORE IN I.D. NO.115/2013 AT ANNEXURE-N AND HOLD THAT THE RESPONDENTS IS NOT ENTITLED TO ANY RELIEF ETC.

IN W.P.NO.2269 OF 2022

BETWEEN:

VEERABHADRAIAH,
S/O LATE SRI SIDDARAMAIAH,
AGED ABOUT 50 YEARS,
R/AT NO.4, MARUTI NILAYA,
HALE RAGHAVENDRA DEVASTANA (MATT),
LAVAKUSHNAGAR, LAGGERE,
BENGALURU-560 058.

...PETITIONER

(BY SRI G.V.P REDDY, ADVOCATE)

AND:

THE MANAGEMENT OF
M/S G4S SECURE SOLUTIONS PVT. LTD.,
NO.5/13, 1ST MAIN ROAD,
VASANTHNAGAR,BENGALURU-560 052.
PRESENTLY AT NO.744,10TH 'A' MAIN ROAD,
1ST STAGE, 4TH BLOCK,HBR LAYOUT, HORAMAVU,
BENGALURU 560043.

REP. BY ITS HUB-ER-LEAD
MR. C.SRINIVASAN.

...RESPONDENT

(BY SRI PRADEEP KUMAR.J, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE AWARD DATED 08.11.2017 PASSED BY THE HON'BLE II ADDITIONAL LABOUR COURT, BENGALURU IN I.D.NO.115 OF 2013,THE CERTIFIED COPY OF WHICH IS PRODUCED AND MARKED AS ANNEXURE-A TO THE EXTENT OF PETITIONER IS AGGRIEVED ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24TH MARCH, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV JUDGMENT

Petitioner/management is assailing the award dated 08.11.2017 in I.D.No.115/2013 in W.P. No.55167/2018. In terms of the impugned award, the termination order dated 09.05.2013 passed by the petitioner/management terminating the services of the respondent/employee is set-aside. The award also directs payment of 50% backwages with continuity of service and consequential benefits.

2. The workman has also filed writ petition No.2269/2022 challenging the award denying 50% back wages.

3. The employer is referred to as the petitioner and the workman is referred to as the respondent.

4. The admitted factual position is the respondent was employed as security guard on 18.06.1996. The petitioner claims that on 01.02.2007, the respondent was promoted as Patrolling Supervisor and on 07.01.2013, the respondent was transferred to Ballari from Bengaluru. The petitioner/establishment claims that Clause No .vii of the appointment order enables the petitioner to transfer its employees.

5. The respondent did not report to the transferred place. However, on 11.01.2013, the respondent wrote a letter expressing his inability to report to duty at Ballari. Petitioner/establishment claims that it has issued reminder letters on 11.01.2013 and 23.01.2013 and the respondent/employee responded to the said letter refusing to report to the transferred place. Petitioner claims to have issued absconding notice on 31.01.2013 and thereafter, vide order dated 09.05.2013, the respondent is terminated from service.

6. The records would reveal that on 21.01.2013 the Union approached the Conciliation Officer raising an issue on the transfer order dated 07.01.2013. Exhibit W.5 would also reveal that the Union also wrote to the Conciliation Officer objecting to the contentions raised by the respondent vide letter dated 08.03.2013 addressed to the Conciliation Officer. It is also noticed that the Conciliation Officer had fixed the Conciliation Proceeding on 07.06.2013 vide order dated 18.05.2013. The respondent on receipt of the order of termination vide letter dated 31.05.2013 also requested to withdraw the order of termination and to continue in service with full backwages, continuity of service and other consequential benefits.

7. Aggrieved by the order of termination, the respondent raised an industrial dispute.

8. The petitioner claimed that the respondent cannot raise an industrial dispute under the Industrial Disputes Act, 1947 (Act, 1947) as the respondent was

working in supervisory capacity and cannot invoke the provisions of the Act, 1947 as he is not a workman.

9. The Labour Court concluded that the respondent was a workman notwithstanding his designation as Patrolling Supervisor and also came to the conclusion that order dated 09.05.2013 terminating the respondent from service is invalid. Accordingly, the award as noted above is passed by the Labour Court and the petitioner/establishment is before this Court.

10. Learned counsel appearing for the petitioner/establishment would submit that the records produced by the petitioner would clearly demonstrate that the respondent was promoted as Patrolling Supervisor with effect from 01.02.2007, 10 years after his joining the petitioner/establishment, and several security guards were working under him and reporting to him and the respondent was carrying out the supervisory work.

11. Learned counsel for the petitioner/establishment would further urge that the Labour Court

erred in holding that the respondent was a workman despite the fact that his promotion as Patrolling Supervisor is duly established.

12. In addition, it is also urged that the domestic enquiry is not needed in a case of this nature where the employee does not obey the transfer order and does not report to the transferred place. The fact that the respondent was transferred vide order dated 07.01.2013 from Bengaluru to Ballari is not in dispute and admittedly, the respondent has not reported to duty at Ballari. That being the position, there was no need to hold an enquiry relating to unauthorized absence and unauthorized absence stands established from the documents produced by the respondent. Thus, it is urged that the misconduct being very much established, the Labour Court could not have passed an award for reinstatement.

13. Learned counsel appearing for the respondent would urge that, the respondent was appointed as security guard in the year 1996. Though his designation was

changed and he is promoted/re designated as Patrolling Supervisor, the nature of duty is not changed and post promotion job profile is not handed over to the respondent to hold that respondent is required to do supervisory work.

14. In addition, it is also urged that the respondent was the office bearer of the Union and was raising many demands on behalf of the workmen and this being the position, the establishment in order to harass and victimize the respondent, has transferred the respondent from Bengaluru to Ballari.

15. It is also urged that the respondent has addressed a letter requesting establishment to withdraw the decision to transfer and same was not considered. That being the position, the respondent had raised a dispute challenging the order of transfer and when that was pending consideration before the Conciliation Officer, the respondent was terminated vide order dated 09.05.2013 without holding any enquiry.

16. The Court has considered the contentions raised at the Bar and perused the records.

17. The fact that the petitioner was appointed as security guard in the year 1996 is not in dispute. The records would indicate that the respondent was promoted as a Patrolling Supervisor in the year 2007. It is well settled position of law that mere designation is not an indicator of the status of the employee as to whether he is a workman or not. Whether the employee is a workman or not has to be ascertained from the nature of the duty assigned and performed by the employee.

18. Admittedly, on his promotion as Patrolling Supervisor, the works assigned or entrusted to the respondent/employee is not established by producing records. The respondent states that he was doing the same job as he was doing earlier in addition to few additional responsibilities post change of designation which are similar to the work done prior to re-designation or promotion.

19. In this background, the Labour Court has considered the evidence on record and has concluded that the petitioner/Management has not placed materials to hold that the respondent was not a workman.

20. It is to be noticed that acceptable materials are not placed to hold that the respondent was discharging the duty in supervisory capacity. Accepting that the respondent was preparing some bills on behalf of the petitioner/establishment and was sanctioning leave to some of the employees working as security guards, that by itself is not sufficient to hold that the respondent was discharging the duty in supervisory capacity to classify him as a not a workman.

21. The Labour Court referring to the judgment of the Bombay High Court in **S.A. Sarang vs W. G. Forge and Allied Industries Limited and others¹** has come to the conclusion that the respondent was a workman and

¹ 1995 FLR Bombay, 967

not working in supervisory capacity or administrative capacity.

22. The Labour Court has also held that the evidence led on behalf of the management is not sufficient to hold that the respondent was working in supervisory capacity.

23. Insofar as the order of termination is concerned, the Labour Court has held that the materials are placed on record to show that the respondent being the office bearer of the Union has placed several demands on behalf of the workers espousing the cause of the workers and under these circumstances, the Labour Court has come to the conclusion that the petitioner/ establishment was required to consider the request made by the respondent to withdraw the order of transfer and order of termination without holding any enquiry amounts to victimization given the fact that respondent was espousing the cause of the workers.

24. The Labour Court has also come to the conclusion that the petitioner/management though claimed that it has transferred the respondent by exercising Clause No. vii of the appointment order, the appointment order is not placed before the Labour Court. Assuming that Clause No. vii permits termination from service in case the order of transfer is not obeyed, the Court is of the view that the petitioner ought to have issued show cause notice and conducted the domestic enquiry. In case of unauthorised absence or not obeying the transfer order, the principle that the domestic enquiry is not required in a situation where the party has not taken a defense that he has reported to duty, cannot have a universal application.

25. The Court is of the view that said principle could not have been applied in the present case for more than one reason. Admittedly, the petitioner was an office bearer of the Union and had raised demands on behalf of the workmen. In addition, responding to the transfer order and also referring to his salary of around Rs.6,000/-

per month he has expressed his inability to maintain himself in Ballari and his family at Bengaluru in the event of transfer. Moreover, when the termination order was issued, the matter was still pending before the Conciliation Officer. In response to the transfer order, the petitioner had also stated that practice of posting the Union member/workman within 10 kms radius from his residence is in vogue.

26. This being the position, the Court does not find any reason to interfere with the award directing reinstatement.

27. The Labour Court has awarded 50% backwages and has denied 50% backwages, and directed reinstatement and continuity of service.

28. It is to be noticed that reasons are not assigned as to why 50% backwages is denied.

29. The respondent has also assailed the award denying 50% backwages. This Court has concurred with the finding of the Labour Court that the order of

termination is illegal. The respondent contends that the award denying backwages without assigning any reasons is erroneous.

30. It is further urged that the Labour Court after having held that order of termination is illegal, could not have denied 50% backwages. It is further urged that no materials are placed to establish that the respondent was gainfully employed and that being the position, the Court could not have denied 50% backwages.

31. Learned counsel for the employer would urge that the workman is not entitled to any backwages as he has not worked after the termination.

32. In a situation where the termination order is said to be illegal, if not in all the cases, in some cases, the Court or the Tribunal would award 100% backwages. The question as to whether, full backwages has to be awarded or not or only part of the backwages is to be denied or not, depends upon various factors. Whether, the workman was employed elsewhere during the period of termination

is one of the factors to be taken into consideration. In the present case, records are not produced to hold that the respondent was gainfully employed elsewhere.

33. However, the Court should also take into account the nature of the job. The workman was working as Patrolling Supervisor. The Court has also come to the conclusion that his job was similar to the job of as Security Guard with some additional responsibility.

34. The Court can by taking judicial note of the nature of the job can reasonably infer that the workman would have been employed at some place. However, that by itself not a ground to deny the backwages. However, in addition it is also to be noticed that it is an admitted position that the workman did not report to duty to the transferred place and thereafter, he raised a dispute.

35. Taking all these factors into consideration, the Court is of the view that the workman is entitled to 75% backwages.

36. Hence the following:

ORDER

- (i) Accordingly, Writ Petition No.55167/2018 is ***dismissed.***
- (ii) The Writ Petition No.2269/2022 is ***allowed-in-part.***
- (iii) The impugned award dated 08.11.2017 in I.D.No.115/2013 on the file of the II Additional Labour Court, Bengaluru is modified.
- (iv) The award directing 50% backwages and continuity of service with consequential benefits is modified awarding 75% backwages and continuity of service with consequential benefits.
- (v) The monetary benefits payable pursuant to this order shall be paid within 60 days from the date of the receipt of the copy of this order after deducting any payment made post award including Section 17B wages paid, if any.

Sd/-

**(ANANT RAMANATH HEGDE)
JUDGE**

BRN