



CNR: KAHC010302862019

NC: 2026:KHC:40037
WP No. 45852 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 45852 OF 2019 (L-RES)

BETWEEN:

M/S. DELTA INFRALOGISTICS
(WORLD WIDE) LTD.,
DELTA HOUSE, 6TH FLOOR,
BANGRA KULUR ROAD,
MANGALORE-575013
REPRESENTED BY IS
MANAGING DIRECTOR

...PETITIONER

(BY SRI. PRASHANTH B.K., ADVOCATE)

AND:

1. SRI. MOHAN K.E.,
6-82/31 KADYADHA,
4TH CROSS ROAD,
KODICAL KATTE,
ASHOKNAGAR,
MANGALORE-575 006.
2. THE CONCILIATION OFFICER
& DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL),
SHRAM SADAN, 3RD MAIN, 3RD CROSS,
II PHASE, TUMKUR ROAD,
BENGALURU-560022.
3. THE SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF LABOUR & EMPLOYMENT,
SHRAM SHAKTI BHAVAN,

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA



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RAFI MARG,
NEW DELHI-110001.

...RESPONDENTS

(BY SMT. MAITREYI KRISHNAN, ADVOCATE FOR R1;
SRI. S.V.DESAI, SPCG FOR R2 AND R3)

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 22.07.2026, THIS DAY, AN ORDER
IS PRONOUNCED AS UNDER:

CAV ORDER

Sri.Prashanth. B.K., counsel for the petitioner and
Smt.Maitreyi Krishnan, counsel for respondent No.1, appeared
in person.

2. The petition is filed to quash the order dated
26.04.2019, passed by the second respondent in No.45(122)
/2016-B4 vide Annexure A.

3. Counsel for the respective parties presented several
contentions.

Counsel for the petitioner submitted that the order
passed by the second respondent is contrary to law, facts, and



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probabilities of the case. Next, he submits that the second respondent has erred in rejecting the approval application filed under section 33(2)(b) of the ID Act. It has been strongly argued that the second respondent made a serious mistake by treating the approval application as a permission application. It is asserted that the approval application was in no way connected to the pending conciliation proceedings in 45(122) 2016-B4. It is further asserted regarding the very jurisdiction of the Central Government. In support of additional grounds, he contends that the impugned order should be quashed, approval granted, and the writ petition allowed.

He placed reliance on the following decision:

*JOHN D'SOUZA V/S. KARNATAKA STATE ROAD
TRANSPORT CORPORATION* reported in 2019 (6) ALT 56.

Counsel for respondent No.1 justified the impugned order. Next, she submits that the respondent joined service on 23.04.1998, and there was no Union at that time. The Union was formed for the first time in 2016, and this was



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communicated to the Management in June 2016. It was also indicated that respondent No.1 was the President of the Union.

It is asserted that in August 2016, the petitioner transferred the respondent from Mangalore to Tuticorin. Since the respondent's mother was unwell, he requested permission to remain in Mangalore, and another employee was willing to go to Tuticorin. However, the management suspended him without considering respondent No.1's grievance. He was subjected to disciplinary proceedings; an enquiry was conducted, the charge was proved, and he was dismissed on 20.09.2017. Counsel strongly argued that the management's action constitutes an unfair labor practice.

It is strenuously urged on behalf of respondent No.1 that two disputes were pending: one concerning the charter of demands and the other regarding the transfer of the respondent from Mangalore to Tuticorin. She pointed out to the Court Section 33(1)(b) and 33(2)(b) of the I.D. Act to assert that the issue of transfer of respondent No.1 was still before the Conciliation Officer. Therefore, the matter involves a dispute. The management could not have invoked Section



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33(2)(b); they should have invoked Section 33(1)(b). She also drew the Court's attention to Annexure-T, the additional submission made by the management before the authority, arguing that the management had challenged the authority's jurisdiction. However, after considering the submissions from both parties, the authority reserved the matter for orders.

She places reliance on the following decisions:

(i) *JAIPUR ZILLA SAHAKARI BHOOMI VIKAS BANK LTD., vs. RAM GOPAL SHARMA* reported in AIR 2002 SC 643.

(ii) *HIND CONSTRUCTION & ENGINEERING CO. LTD VS. THEIR WORKMEN* reported in AIR 1965 SC 917.

(iii) *COLOUR - CHEM LIMITED VS. A.L.ALASPURKAR AND ORS.* reported in AIR 1998 SC 948.

(iv) *LALA RAM VS. MANAGEMENT OF D.C.M. CHEMICALS WORKS LTD. AND ORS.* reported in AIR 1978 SC 1004.

4. Heard the arguments and perused the papers with care.



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5. The following points arise for determination.

1. *Whether the second respondent erred in rejecting the approval application filed under Section 33(2)(b) of the Industrial Disputes Act by treating it as a permission application.*
2. *Whether the approval application was connected to the pending conciliation proceedings in Case No. 45(122)/2016-B4.*
3. *Whether the impugned order of the second respondent calls for interference by this Court.*

6. The issue falls within a narrow compass. The petitioner's counsel has argued that the statutory scheme under Section 33(2)(b) requires only approval of the action taken by the management, and not prior permission. Treating the application as one for permission amounts to a fundamental error. The approval application was filed independently of the conciliation proceedings in Case No.45(122)/2016-B4, and, therefore, the rejection on the ground of pendency of the conciliation proceedings is unsustainable.



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On the other hand, respondent No.1's counsel has emphasised that the disputes concerning the charter of demands and transfer were pending, and hence Section 33(1)(b) ought to have been invoked. She has further argued that the dismissal of respondent No. 1, who was the President of the newly formed Union, constitutes victimisation and an unfair labour practice. Reliance was placed on statutory provisions and judicial precedents to support this contention.

The rival contentions are noted with utmost care, and the Court notes the distinction between Section 33(1)(b) and Section 33(2)(b) of the ID Act.

Section 33(1)(b) mandates prior permission of the adjudicating authority when the proposed action relates to matters connected with the pending dispute. Section 33(2)(b) permits the employer to dismiss or discharge a workman for misconduct not connected with the pending dispute, subject to payment of one month's wages and subsequent approval of the authority. The distinction lies in the timing of permission (prior vs. subsequent) and in the nexus between misconduct and the dispute under adjudication.



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7. Reverting to the facts of the case, disputes concerning the charter of demands and transfer were pending, and those disputes were in no way connected with the disciplinary action initiated against the first respondent. It is not in dispute that the first respondent was subjected to disciplinary proceedings and was punished. The law is settled that once the management imposes a punishment order, it must comply with section 33(2)(b). This Court has perused the writ papers with care. The punishment order, along with a DD, is at Annexure O, and the approval application is at Annexure-N. There is compliance with section 33(2)(b) of the I.D. Act.

The second respondent treated the approval application under Section 33(2)(b) as a permission application, which is a misdirection of law. The approval application was not connected to the pending conciliation proceedings relating to the charter of demands and transfer dispute. As already noted above, Section 33(1)(b) applies when the dispute relates to the subject matter of the action taken, whereas Section 33(2)(b) applies to cases of dismissal or discharge during the pendency of proceedings, subject to approval. The authority's approach in



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conflating the two provisions has resulted in an erroneous order.

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 decisions turns on its own facts. The present case is also tested in the light of the aforesaid decisions.

8. In view of the above findings and reasoning, this Court holds that:

- i. The impugned order dated: 26.04.2019 passed by the second respondent vide Annexure-A is unsustainable in law and is quashed.
- ii. The approval application filed under Section 33(2)(b) of the Industrial Disputes Act is allowed.
- iii. The writ petition stands ***allowed***.

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

MRP
List No.: 1 Sl No.: 1