

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. 23493 OF 2021 (L-RES)

BETWEEN:

M/S G4S SECURE SOLUTIONS INDIA PVT. LTD.,
NO.5/13, 1ST MAIN ROAD,
VASANTHANAGARA,BANGALORE-560 052.
PRESENTLY AT NO.744,4TH BLOCK, HBR LAYOUT,
BANGALORE-560 043.REP. BY ITS HUB-LEGAL HEAD
MR. R GUNASHEKARAN (58 YEARS).

...PETITIONER

(BY SRI PRADEEP KUMAR J., ADVOCATE)

AND:

MR. S KRISHNA MURTHY
AGED ABOUT 52 YEARS,
S/O SRI SHIVARAMAIAH,
R/AT NO.619, 1ST MAIN, 1ST CROSS,
BYRAVESHWARANAGARA, LAGGERE,
BANGALORE-560 058.

...RESPONDENT

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

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE AWARD DATED 28.4.2021 PASSED BY THE II ADDITIONAL LABOUR COURT, BANGALORE IN ID NO.176/2013 WHICH IS AT ANEXURE-'R' ETC.

THIS PETITION 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

Digitally signed
by BELUR
RANGADHAMA
NANDINI

Location: HIGH
COURT OF
KARNATAKA

CAV JUDGMENT

The petitioner-Establishment is assailing the award dated 28.04.2021 passed by the II Additional Labour Court, Bengaluru in I.D.No.176/2013. In terms of the said award, the order of dismissal dated 14.10.2013 passed by the petitioner-Establishment against the respondent is set-aside. The petitioner-Establishment is directed to reinstate the respondent-employee to his original place with 100% backwages.

2. The Labour Court also directed continuity of service and all other consequential benefits and also imposed cost of Rs.5,000/- on the petitioner-Establishment.

3. The petitioner claims that, it is a Company engaged in providing security solutions to various Corporate Companies across India. The respondent was appointed as a security guard with effect from 22.06.1996 and he was promoted as security supervisor with effect from 01.12.2004. Petitioner states that respondent was drawing a salary of Rs.9087/- per month. Petitioner claims that there were 25 security guards working under the respondent-employee as the respondent was promoted and was doing supervisory work. It is stated that the

respondent used to mark the attendance of security guards, sanction leave whenever the leave was sought by the security guards and was reporting to the management about the performance of the security guards under him.

4. On this premise, the petitioner-Establishment primarily contends that the respondent is not a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 (Act, 1947).

5. The petitioner also alleges that the respondent started manipulating the attendance register, made fraudulent entries, used to come late to work and habitually remained away from work during working hours.

6. In this background, the petitioner issued three show cause notices dated 24.12.2012, 29.12.2012 and 25.02.2013. Petitioner further claims that domestic enquiry was held pursuant to the aforementioned notices. The enquiry officer has recorded a finding that the charges relating to being late to report to duty and that the workman was habitually staying away during working hours is not established.

7. However the enquiry officer found that the respondent is guilty of charge relating to manipulating/

tampering attendance register. Accordingly, on 14.10.2013 the respondent was terminated from service.

8. The respondent-employee raised industrial dispute. The petitioner raised a contention relating to maintainability of the petition before the Labour Court on the premise that the respondent is not a workman.

9. The Labour Court considered the contention relating to the validity of the domestic enquiry and found that the domestic enquiry is not fair and proper and the parties led evidence on merits.

10. The respondent had raised a contention that he was the General Secretary of the Union and made several demands on behalf of the workers and for this reason the respondent-employee was victimized. Though there were no reasons to hold domestic enquiry, same was held. The charge relating to the tampering of attendance register is held to be proved, without any basis and consequently, was erroneously terminated from service.

11. In addition, respondent also contended that he was not working as a security supervisor, but was a security guard. Despite changing the designation, he continued the same duty

that he was doing earlier and the Labour Court was justified in holding that he was a workman.

12. The Labour Court on the basis of evidence led has come to the conclusion that the respondent was a workman and not a supervisor and on appreciation of evidence has concluded that the finding on misconduct against the workman is erroneous. Thus, set-aside the order of dismissal and awarded 100% backwages and continuity of service.

13. Learned counsel appearing for the petitioner-Establishment would urge that the charge relating to tampering of attendance register is very much established. The respondent has admitted his signature and the handwriting on the documents confronted to him and the charge relating to tampering the attendance register being a serious charge, the Labour Court could not have held that the charge is not established despite the petitioner-Establishment producing the attendance register where the tampering is visible.

14. In addition, it is urged that the documents produced and marked on behalf of the petitioner-Establishment would demonstrate that, the respondent was appointed as a security

supervisor and that being the position, the Labour Court could not have held that the respondent was a workman.

15. Learned counsel appearing for the respondent would submit that, the Labour Court has appreciated the materials on record in proper perspective. The witness examined on behalf of the Management in the cross examination has admitted that no documents are produced to show as to what are the duties entrusted to the respondent on being promoted as security supervisor and without there being any document to show as to the nature of work carried out by the respondent in supervisory capacity, the petitioner cannot contend that the respondent was not a workman.

16. It is also urged that the Labour Court has come to the conclusion that the allegation relating to tampering of records is not established. The witness examined on behalf of the Establishment has deposed that the charge is leveled against the respondent on the basis of a statement said to have been made by another security guard by name Bopaiah, and said Bopaiah is not examined. That being the position, the evidence led on behalf of the petitioner-Establishment is not

good enough to hold that the respondent was guilty of tampering the attendance register.

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

18. As far as the status of the respondent whether he was a workman or not, has to be considered from the nature of the work and not just by designation. Admittedly, the respondent was appointed as a security guard and if the respondent is a security guard given the nature of the work, then the respondent would definitely be a workman, and on this score is no dispute.

19. However, the petitioner claims that the respondent-employee was promoted as security supervisor with effect from 01.12.2004 and because of the promotion as Security Supervisor and the nature of the work done by the respondent, he was not a workman when he was removed from service.

20. The document relating to the promotion is produced. But what is relevant is that, the duties entrusted to the respondent on he being promoted as a security supervisor is not forthcoming from the said records.

21. Though the witness examined on behalf of the management has stated that the respondent had initiated the disciplinary action against some of the security guards working under his supervision, no records are produced to show that the respondent did initiate disciplinary enquiry against security guards.

22. In addition, though it is also urged that the respondent used to sanction leave to the security guards who applied for leave, the evidence on record is not good enough to hold that the respondent was working in supervisory capacity and not as a workman. Assuming that the respondent used to sanction leave, that by itself is not sufficient to take a view that the respondent was working in supervisory capacity in terms of Section 2(s) of Act, 1947.

23. The findings of the Labour Court that the respondent was a workman cannot be said to be a perverse finding so as to interfere in exercise of jurisdiction under Article 227 of the Constitution. It is based on some evidence available on record.

24. Insofar as the misconducts of reporting late to duty and staying away from the place during working hours are

concerned, the enquiry officer has held that those charges are not proved. So the only charge that requires consideration is whether the respondent has tampered the attendance register.

25. The Labour Court in order to conclude that the said charge is not proved has referred to the evidence wherein the witness examined on behalf of the management has stated that he is not too sure about the alleged signatures of the respondent on the attendance register. By referring to the said statement of the witness, the Labour Court has held that the evidence of the establishment is not sufficient to take a view that the respondent has tampered the attendance register.

26. Though, it is alleged that the respondent used to collect money from the security guards for altering the attendance register, the evidence of those security guards who allegedly paid money to the respondent is not led before the Labour Court.

27. Moreover, it is noticed that in the cross examination, the respondent has disputed the signatures confronted to him.

28. Under these circumstances, the Court is also of the view that the charge relating to alteration in the attendance register is not established.

29. The view taken by the Labour Court is based on evidence and that is certainly one plausible view and that cannot be said to be perverse so as to interfere in exercise of jurisdiction under Article 227 of the Constitution of India.

30. Learned counsel for the petitioner-Establishment has not pointed out any materials to take a view that the respondent/employee was gainfully employed after termination.

31. It is also relevant to notice that after the award passed by the Labour Court and during the pendency of the present writ petition, correspondence has taken place between the petitioner and the respondent wherein the petitioner has offered to reinstate the respondent as a security guard at a different place in Bengaluru. The respondent appears to have insisted for the appointment in the same place where the respondent was working earlier before the dismissal.

32. The Labour Court has also taken note of the fact that, the respondent is entitled to 100% backwages on the statement made by the respondent that he is not gainfully

employed elsewhere. The respondent has also produced evidence to show that one of his son is differently abled and the Court is of the view that the petitioner is not in a position to establish that he was gainfully employed elsewhere after the dismissal. Though it is quite possible to infer that the respondent could have worked at some places after termination, in the peculiar facts of the case where it appears that the respondent is terminated to suppress his activities as a General Secretary of the Union. The Court does not find any reason to interfere with the award directing 100% backwages. It appears the Labour Court has also taken note of the fact that the respondent has to support his differently abled child.

33. It is to be noticed that the petitioner is engaged in providing security solutions to various Corporate Establishments across India and the petitioner will post the security guards to its customers place. This being the position, the respondent certainly cannot insist for appointment in the same place where he was working earlier before the dismissal. If the petitioner's customer for whose service the respondent was posted earlier, is not the present customer of the petitioner, the respondent cannot insist to post him in the same place. Even other wise, the respondent cannot insist to be

posted in the same place where he was working earlier. However, considering the fact that the respondent has a differently abled son, and if the respondent makes a request to post him in Bangalore where he is now residing, such request shall be considered by the petitioner.

34. Accordingly, the Writ Petition is ***dismissed***.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

BRN