IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.787 of 2025 a/w LPA Nos.844, 845, 846, 847, 848, 849, 850, 851, 853, 854, 855, 856, 857, 858, 859, 860, 861, 868, 882, 884, 885, 886, 887, 888, 889, 890, 891, 893, 894, 895, 896 of 2025
Reserved on : 19.08.2026
Decided on :26.08.2026
Uploaded on:26.08.2026

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1. **LPA No.787 of 2025**
HFCL Limited.

…Appellant.

Versus

Ritu Kumari & Ors.

…Respondents.

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2. **LPA No.844 of 2025**
HFCL Limited.

…Appellant.

Versus

Mahesh Kumar & Ors.

…Respondents.

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3. **LPA No.845 of 2025**
HFCL Limited.

…Appellant.

Versus

Sanjay Kumar & Ors.

…Respondents.

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4. **LPA No.846 of 2025**
HFCL Limited.

…Appellant.

Versus

Manoj Kumar Panwar & Ors.

…Respondents.

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5. **LPA No.847 of 2025**
HFCL Limited.
…Appellant.
Versus
Reena Sharma & Ors.
…Respondents.

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6. **LPA No.848 of 2025**
HFCL Limited.
…Appellant.
Versus
Harinder Kumar & Ors.
…Respondents.

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7. **LPA No.849 of 2025**
HFCL Limited.
…Appellant.
Versus
Hari Ram & Ors.
…Respondents.

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8. **LPA No.850 of 2025**
HFCL Limited.
…Appellant.
Versus
Anjana Thakur & Ors.
…Respondents.

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9. **LPA No.851 of 2025**
HFCL Limited.
…Appellant.
Versus
Ishwer Dutt & Ors.
…Respondents.

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10. **LPA No.853 of 2025**
HFCL Limited.
…Appellant.
Versus
Ramesh Thakur & Ors. …Respondents.

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11. **LPA No.854 of 2025**
HFCL Limited.
…Appellant.
Versus
Rekha Dhiman & Ors.
…Respondents.

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12. **LPA No.855 of 2025**
HFCL Limited.
…Appellant.
Versus
Indu Bala & Ors.
…Respondents.

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13. **LPA No.856 of 2025**
HFCL Limited.
…Appellant.
Versus
Vijay Kumar & Ors.
…Respondents.

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14. **LPA No.857 of 2025**
HFCL Limited.
…Appellant.
Versus
Madan Lal & Ors.
…Respondents.

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15. **LPA No.858 of 2025**
HFCL Limited.
…Appellant.
Versus
Ranjeet Singh & Ors.
…Respondents.

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16. **LPA No.859 of 2025**

HFCL Limited.
…Appellant.
Versus
Vinod Kumar & Ors. …Respondents.

17. **LPA No.860 of 2025**
HFCL Limited.
…Appellant.
Versus
Babu Ram & Ors.
…Respondents.

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18. **LPA No.861 of 2025**
HFCL Limited.
…Appellant.
Versus
Meena Kumari & Ors.
…Respondents.

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19. **LPA No.868 of 2025**
HFCL Limited.
…Appellant.
Versus
Nisha Sharma & Ors.
…Respondents.

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20. **LPA No.882 of 2025**
HFCL Limited.
…Appellant.
Versus
Indu Sharma & Ors.
…Respondents.

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21. **LPA No.884 of 2025**
HFCL Limited.
…Appellant.
Versus
Sikandar Kumar & Ors.
…Respondents.

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22. **LPA No.885 of 2025**
HFCL Limited.
…Appellant.
Versus
Rajindra Kumari & Ors. …Respondents.

23. **LPA No.886 of 2025**
HFCL Limited.
…Appellant.
Versus
Punam Chauhan & Ors.
…Respondents.

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24. **LPA No.887 of 2025**
HFCL Limited.
…Appellant.
Versus
Krishna Devi & Ors.
…Respondents.

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25. **LPA No.888 of 2025**
HFCL Limited.
…Appellant.
Versus
Surindra Chauhan & Ors.
…Respondents.

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26. **LPA No.889 of 2025**

HFCL Limited.
…Appellant.
Versus
Nita Mehta & Ors. …Respondents.

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27. **LPA No.890 of 2025**
HFCL Limited.
…Appellant.
Versus
Radha Puri & Ors.
…Respondents.

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28. **LPA No.891 of 2025**
HFCL Limited.
…Appellant.
Versus
Tarakki Chand Sharma & Ors.
…Respondents.

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29. **LPA No.893 of 2025**

HFCL Limited.

…Appellant.

Versus

Anjana Kumari & Ors.

…Respondents.

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30. **LPA No.894 of 2025**

HFCL Limited.

…Appellant.

Versus

Premi Devi & Ors.

…Respondents.

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31. **LPA No.895 of 2025**

HFCL Limited.

…Appellant.

Versus

Sita Ram & Ors.

…Respondents.

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32. **LPA No.896 of 2025**

HFCL Limited.

…Appellant.

Versus

Sita Devi & Ors. …Respondents

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the appellant(s) : Mr. Sudhir Thakur, Senior Advocate with Mr. Somesh Sharma, Advocate, for the appellant(s), in all the appeal(s).

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[1] *Whether the reporters of the local papers may be allowed to see the Judgment?* Yes

For the respondent(s) : Mr. Rohit Sharma, Mr. Anuj Gupta and Mr. Surjeet Kumar, Advocates, for the workmen, in all the appeal(s).

Ms. Priyanka Chauhan, Deputy Advocate General, for respondents-State.

Bipin Chander Negi, Judge

By way of the present appeals, a challenge has been laid to the impugned judgment dated 24.04.2025, passed by the learned Single Judge, whereby writ petitions filed by the present appellant laying challenge to the order dated 01.10.2022 passed by the learned Industrial Tribunal-cum-Labour Court against allowing of petitions filed under Section 33-A of the Industrial Disputes Act, 1947 (hereinafter referred for the sake of brevity as 'the Act') by the Labour Court, filed by the present respondents herein, have been held to have lost their efficacy on account of adjudication (passing of award dated 01.11.2022) by the learned Labour Court in Reference bearing No. 138/2019 and Reference No. 141/2019, titled as *General Secretary, M/s Himachal Futuristic Communications Limited Group Mazdoor Sangh vs. The Factory Manager, Futuristic Communications Limited*.

2. On account of continued losses suffered by the appellant, the manufacturing operations at Solan were stated to have become unviable. In the aforesaid circumstances, the appellant decided to shift their usable plant and machinery to a new location at Hyderabad (Telangana). On account of the aforesaid shifting, in order to ensure that shifting of employees was not detrimental to their service conditions, emoluments, the appellant decided that there would be no break in service on account of the aforesaid closure and consequential shifting of employees. The appellant agreed to give adequate displacement allowance to employees/officers who would be shifted to Hyderabad or to other locations where the appellant is conducting operations. The aforesaid is evident from the notice of shifting dated 20.02.2020 (Annexure P-5, pages 76 to 78 of the paper book).

3. In pursuance to the aforesaid, necessary transfer orders were passed. One such transfer orders has been placed on record as Annexure P-8 (pages 83/84) dated 04.09.2020, whereby an employee previously working at Solan had been shifted to Ranchi, Jharkhand, where operations of the appellant were being conducted.

4. The appointment letter of the employee so transferred vide Annexure P-8 has been placed on record as Annexure P-23 (pages 392 to 394 of the paper book). The appointment letter incorporates the below-mentioned condition *qua* transfer of employee. The same is being reproduced hereinbelow for a ready reference:

> *"07. Your services shall be transferable any where in India to any Branch, Unit, Office or sister concern of the Company."*

5. In this respect, it would also be appropriate to refer to the certified Standing Orders which have been placed on record (page 338 of the paper book). Relevant extract whereof dealing with transfer of an employee is being reproduced hereinbelow for ready reference:

> *"14. TRANSFER*
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> *A workman may be transferred according to the exigencies of work from one shop or department to another shop or department of the establishment as the case may be, or from one station to another station or one establishment to another establishment under the same employer:*
>
> *Provided that the wages, grade, continuity of service and other conditions of service of the*

workman shall not be adversely affected by such transfer.

(i) Reasonable notice is given before making a transfer and reasonable joining time is allowed.

(ii) The concerned workman shall be paid travelling allowances as the company's rules.

(iii) Provided further that where the transfer involves moving from one station to another such transfer shall take place with the consent of the workmen or where there is a specific provision to that effect in the letter of appointment."

6. The respondents herein preferred petitions under Section 33-A of the Industrial Disputes Act, 1947, as according to them, on account of transfer order dated 04.09.2020 (Annexure P-8), during the pendency of Reference No. 138 of 2019 pending adjudication before the Labour Court, there was a change in the condition of service of the respondents.

7. The petition in this respect was instituted on 24.12.2020 and finally decided on 01.10.2022 by the H.P. Industrial Tribunal-cum-Labour Court, Shimla (the judgment has been placed on record as Annexure P-14).The Labour Court was of the view that the transfer order dated 04.09.2020 had been issued without seeking prior permission

of the appropriate authority during the pendency of Reference Petition bearing No. 138 of 2019, pending consideration before the Industrial Tribunal-cum-Labour Court. As a consequence whereof, the transfer order dated 04.09.2020 was quashed and set aside.

8. It is in the aforesaid backdrop that feeling aggrieved by the judgment dated 01.10.2022 passed by the Labour Court, the appellant had preferred writ petitions assailing the same.

9. Heard counsel for the parties and perused the pleadings.

10. Petition under Section 33-A of the Industrial Disputes Act, 1947 had been filed during the pendency of Reference Petitions bearing No.138/2019 and 141/2019. The said reference petitions admittedly were decided vide award dated 01.11.2022.

11. In the aforesaid facts and attending circumstances, the learned Single Judge was of the view that the *locus* of the respondents/workmen to file petitions under Section 33-A of the Industrial Disputes Act, 1947 arose on account of the pendency of the reference petitions before the Labour Court.

Once the reference petitions were decided vide award dated 01.11.2022, in the considered view of the learned Single Judge, the judgment passed in petitions filed under Section 33-A of the Industrial Disputes Act lost efficacy.

12. In the aforesaid circumstances, learned counsel appearing on behalf of the appellant contends that by not deciding the writ petition wherein a challenge had been laid to the judgment passed by the Industrial Tribunal in petitions under Section 33-A of the Industrial Disputes Act, and holding the writ petitions so filed to have lost efficacy, the present appellant has been left remediless.

13. The reasoning given by the learned Single Judge cannot be faulted with. Section 33 is a preventive measure to prevent adverse alteration in the conditions of service of a workman when "conciliation" or any other proceedings in respect of an "industrial dispute" to which such workman is also concerned, are pending before a Conciliation Officer, Board, Arbitrator, Labour Court or Tribunal. The laudable object being to prevent industrial unrest when some proceedings emanating from the subjects enlisted in Second or Third Schedule of the Act are pending adjudication. In this

respect reference can be made to ***John D'Souza v. Karnataka SRTC, (2019) 18 SCC 47,*** relevant extract whereof reads as under;

> ***22.*** *Having held so, it should not take long to trace out the legislative object behind incorporation of Section 33, including sub-section (2) thereof. The caption of Section 33 itself sufficiently hints out that the primary object behind this provision is to prevent adverse alteration in the conditions of service of a workman when "conciliation" or any other proceedings in respect of an "industrial dispute" to which such workman is also concerned, are pending before a Conciliation Officer, Board, Arbitrator, Labour Court or Tribunal. The legislature, through Sections 33(1)(a) and (b) has purposefully prevented the discharge, dismissal or any other punitive action against the workman concerned during pendency of proceedings before the arbitrator, Labour Court or a Tribunal, even on the basis of proven misconduct, save with the express permission or approval of the Authority before which the proceedings is pending. Sub-section (2) of Section 33 draws its colour from sub-section (1) and has to be read in conjunction thereto. Sub-section (2), in fact, dilutes the rigours of sub-section (1) to the extent that it enables an employer to discharge, dismiss or otherwise punish a workman for a proved misconduct not connected with the pending dispute; in accordance with Standing Orders applicable to the workman or in absence thereof, as per the terms of contract; provided that such workman has been paid one month wages while passing such order and before moving application before the Authority concerned "for*

approval of the action". In other words, the Authority concerned (Board, Labour Court or Tribunal, etc.) has to satisfy itself while considering the employer's application that the "misconduct" on the basis of which punitive action has been taken is not the matter sub-judice before it and that the action has been taken in accordance with the standing orders in force or as per the terms of the contract. The laudable object behind such preventive measures is to ensure that when some proceedings emanating from the subjects enlisted in Second or Third Schedule of the Act are pending adjudication, the employer should not act with vengeance in a manner which may trigger the situation and lead to further industrial unrest.

14. The plea now sought to be raised by the appellant/writ petitioner of being left remediless is without any merit as the appellant/writ petitioner would be at liberty to deal with its employees (transfer) in accordance with law.

15. For the aforesaid reasons, the present appeals are disposed of in the aforesaid terms, so also the pending miscellaneous application(s), if any.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

26th August, 2026
(Gaurav Rawat)