

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**(I) CWP-4764-2024 (O&M)
Date of Decision : December 11, 2025**

M/S KANSAI NEROLAC PAINTS LIMITED -PETITIONER

V/S

STATE OF HARYANA AND OTHERS -RESPONDENTS

(II) CWP-4921-2024 (O&M)

M/S KANSAI NEROLAC PAINTS LIMITED -PETITIONER

V/S

STATE OF HARYANA AND OTHERS -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Pawan Kumar Mutneja, Sr. Advocate, with
Mr. Viranjeet Singh Mahal, Advocate, and
Ms. Suverna Mutneja, Advocate
for the petitioner.

Mr. Bhupender Singh, Addl. A.G., Haryana.

Mr. Aashish Chopra, Sr. Advocate, (Through V.C.) with
Mr. Abhishek Kansal, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. The amenability of both these writ petitions for being decided through a common verdict generates from theirs stemming from alike orders dated 04.01.2024, passed by the respondent No.3- Additional Labour Commissioner, NCR, Gurugram. Vide the impugned orders dated 04.01.2024, the applications filed by the petitioner/management under Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as the "I.D. Act") seeking approval for dismissal of the respondent No.2/workmen were rejected.

2. The principal argument of learned senior counsel for the

management is that the impugned orders have been passed by an authority lacking statutory jurisdiction to adjudicate the applications in question. He draws the attention of this Court to the notification dated 12.04.2006 to submit that the Additional Labour Commissioner, NCR, Gurugram, has neither been empowered nor sub-delegated any authority through any notification to adjudicate the applications in question. He also draws the attention of this Court to an information furnished under the Right to Information Act, 2005, by the Labour Commissioner, Haryana, categorically stating that under Section 4 read with Section 12 of the I.D. Act, the Additional Labour Commissioner, NCR, Gurugram, has not been appointed as a Conciliation Officer. Accordingly, it is contended that the impugned orders are *void ab initio* and the defect is incurable.

3. Learned senior counsel for the management has further assailed the impugned orders on merits, contending that the management was not even required to seek prior approval for termination/dismissal of the respondent No.2/workmen.

4. *Per contra*, learned senior counsel for the respondent No.2/workmen refutes the submissions of the management and advances a twofold argument: first, that the Additional Labour Commissioner, NCR, Gurugram, has been adjudicating similar applications for the past ten years and, therefore, the management cannot now question his competence; and second, that having itself invoked the jurisdiction of the Additional Labour Commissioner, NCR, Gurugram, by filing the applications in question before him, the management is estopped from challenging his authority at this belated stage, particularly when the workmen have remained out of employment for five years. It is contended that the management's attempt is merely to protract the proceedings and

deprive the workmen of their rightful dues.

5. This Court has heard the rival arguments pitched by learned senior counsel for the contesting litigants and made a studied survey of the record.

6. Although there is no wrangle amongst the parties that the respondent No.3 lacked statutory jurisdiction to pass the impugned orders, learned senior counsel for the workmen nevertheless seeks to sustain them on the ground that similar orders have been passed by the same authority in earlier number of cases also. This submission, however, is untenable. A defect of inherent lack of jurisdiction strikes at the root of the matter and renders the impugned orders nullities in law. The mere fact that the management filed the applications before an authority lacking statutory competence cannot lend legitimacy to orders passed by such authority. As the defect is incurable, the impugned orders cannot be sustained. Accordingly, the **impugned orders are set aside** and the **matter is remanded for fresh adjudication by the competent authority**.

7. Now, the issue emerging for consideration is “*whether the management is required to seek prior approval under Section 33(2)(b) of the I.D. Act before terminating/dismissing the respondent No.2/workmen*”. This Court refrains from examining this issue at this stage, as the same falls within the domain of the competent authority and can be well adjudicated by it while adjudicating the applications in question. Similarly, the status of the workmen and their entitlement to wages and other benefits etc. are also left open for consideration and adjudication by the competent authority.

8. Consequently, the respondent No.3- Additional Labour Commissioner, NCR, Gurugram, is directed to, on receipt of a certified copy of

this order, forthwith transmit the original applications preferred by the management to the competent authority for fresh adjudication. Considering that the respondent No.2/workmen have remained unemployed for the past five years, the competent authority shall endeavour to decide the applications within three months of *seisin*, but after considering the submissions of the parties and the judicial precedents relied upon by them.

9. Both these writ petitions stand disposed of accordingly.
10. Pending applications also stand disposed of accordingly.
11. A photocopy of this order be placed on file of connected case.

December 11, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No