



DENTONS

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Compendium of Labour and Employment Law Judgements

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Part A – Supreme Court Judgements

Supreme court affirms regularization rights of employees performing permanent services

Vinod Kumar and Ors. v. Union of India and Ors.
(2024 SCC OnLine SC 1533)

Brief Facts:

The Appellants reached to the Hon'ble Supreme Court against the order of the Hon'ble High Court of Allahabad for regularization of their posts after serving over 25 years as 'Accounts Clerks' under a temporary scheme. The Appellants argued that the nature of work, including continuous service for over 25 years, as well as promotions held by a regularly constituted departmental committee, resonates with the regular employees and not casual or temporary employees.

Findings of The Hon'ble Supreme Court:

The Hon'ble Supreme Court observed that the employment rights should be assessed based on the evolved duties and responsibilities over time, rather than the original temporary terms of their appointment. The uninterrupted service, which mirrored the functions of regular employees, along with a selection and promotion process akin to that for permanent positions, indicated a significant departure from their initial temporary engagement. The absence of any formal reiteration of their temporary status or the specification of employment duration necessitated a re-evaluation of their roles. Consequently, the Hon'ble Supreme Court found that procedural formalities at the beginning of employment cannot indefinitely deny the substantive rights that have been established through prolonged, continuous service. Ignoring the employee's substantial role and ongoing service comparable to that of permanent employees contradicts the principles of equity, fairness, and the intended spirit of employment regulations. Therefore, the Hon'ble Supreme Court upheld the plea for regularization by Appellants.

Employees could be transferred in accordance with terms of the contract

Divgi Metal Wares Ltd. v. Divgi Metal Wares Employees Association and Anr.
(2024 SCC OnLine SC 366)

Brief Facts:

Divgi Metal Wares Ltd. operates two factories in Maharashtra and Karnataka, manufacturing automobile gears. The Employee Association, representing the workers, faced a legal challenge when the company transferred 66 workmen from Karnataka to Maharashtra. Despite the terms of appointment and Standing Orders under the Industrial Employment ("Standing Orders") Act, 1946, allowing for such transfers, the workmen did not report to the new location and raised Industrial Disputes. The tribunal ruled the transfers were not malicious, but the Employee Association disagreed, leading to a writ petition and appeal. The Employee Association contended that the Standing Order's transfer clause was the sole permissible basis for employee transfers, and any action beyond this was not allowed.

Findings of The Hon'ble Supreme Court:

The Hon'ble Supreme Court found that the terms of appointment clearly stated that employee services were transferable within the company's departments or offices. It was determined that the Standing Orders could not override the contract of service provisions. The Hon'ble Supreme Court thus held that the employer had the right to transfer employees based on the terms of appointment, and the transfers in question were not made with malice.

Contract labour are eligible for regularization and employment

Mahanadi Coalfields Ltd. v. Brajrajnagar Coal Mines Workers' Union (2024 SCC OnLine SC 270)

Brief Facts:

Mahanadi Coalfields Ltd. faced a legal challenge regarding the regularization of contract workers employed by a coal transport contractor. The Union sought permanent status for these workers, citing an agreement that prohibited engaging contract labour for permanent jobs. Out of 32 workers, only 19 were regularized, leading to a dispute for the remaining 13. The Industrial Tribunal directed their regularization, but Mahanadi Coalfields Ltd. appealed, arguing that the Tribunal lacked authority to grant permanent status and that the work was not perennial.

Findings of The Hon'ble Supreme Court:

The Hon'ble Supreme Court scrutinized the nature of the work performed by the 13 non-regularized workers and found it to be identical to that of the 19 regularized employees. The Hon'ble Supreme Court emphasized that the Tribunal, upon referral from the Central Government, had the authority to examine the matter and grant regularization. It rejected the notion of an 'artificial distinction' made by Mahanadi Coalfields Ltd. between the two groups of workers. The Hon'ble Supreme Court observed that the company did not provide any substantial evidence to differentiate between the tasks performed by the regularized and non-regularized workers. It was clear that all workers were engaged in the same kind of work, which was regular and perennial in nature, and thus, they stood on equal footing. Furthermore, the Hon'ble Supreme Court affirmed that the workers were entitled to back wages, as determined by the Tribunal. This decision was based on the principle that workers engaged in permanent or perennial tasks should not be deprived of the benefits of regularization simply because they were initially hired as contract labour.

Resignation is complete the instance it is accepted


Shriram Manohar Bande v. Uktranti Mandal and Ors. (2024 SCC OnLine SC 647)

Brief Facts:

The Appellant contested a judgment of tribunal that overturned their termination and ordered reinstatement with 50% back wages. The Tribunal had previously declared the termination unlawful and awarded 50% back wages without requiring proof of employment during the interim.

Findings of The Hon'ble Supreme Court:

The Hon'ble Supreme Court affirmed that the acceptance of a resignation by the appropriate authority effectively terminates employment, regardless of communication to the employee. The Hon'ble Supreme Court clarified that once a resignation is accepted by the appropriate authority, the employment is deemed terminated, even if the acceptance is not communicated to the employee. Consequently, the Hon'ble Supreme Court affirmed that the non-communication of acceptance does not invalidate the termination, as the resignation is deemed accepted upon approval by the appropriate authority.



Employer's financial capacity is major factor in fixing wage structure

The VVF Ltd. Employees Union v. M/s. VVF India Ltd. & Anr. (2024 SCC OnLine SC 534)

Brief Facts:

The Employees union filed a review petition against a 2019 judgment, claiming oversight of their demands for allowances. Originating from a 2008 charter, they sought revised wages and allowances, which the Tribunal partially granted in 2014, including Medical Allowance. The Hon'ble Bombay High Courts set aside the Tribunal's Award on a few demands and held the decision for the rest of the demands. The key issue in the matter was Whether the financial capacity of the employer is a relevant factor in fixing wage structures.

Findings of The Hon'ble Supreme Court:

The Hon'ble Supreme Court highlighted the '**industry-cum-region test**' as a standard for wage revision, which necessitates comparing wages with similar units in the region. However, it stressed the employer's financial capacity as a key factor in this comparison. Citing cases like *A.K. Bindal v. UOI and Mukand Ltd. v. Mukand Staff & Officers' Assn.*, the Hon'ble Supreme Court noted the importance of considering the employer's financial health when setting wages. The Hon'ble Supreme Court observed that the employer's financial status was not properly evaluated, despite evidence to the contrary. Consequently, the Hon'ble Supreme Court overturned the Hon'ble High Court's decision, affirming that the employer's financial capacity cannot be overlooked when applying the industry-cum-region test to determine wage revisions and allowances.

Part B – High Court Judgments

Bombay High Court

Working journalists are not employees

Shri Indrakumar Jain v. M/s. Dainik Bhaskar & Ors.
(2024 SCC OnLine Bom 728)

Brief Facts:

The Hon'ble Bombay High Court addressed the status of working journalists under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("**MRTU & PULP Act**"). The division bench of the Hon'ble High Court was resolving a reference from a Single Judge due to conflicting orders in writ petitions by journalists and newspapers. The petitions challenged Industrial Court orders regarding complaints of unfair labour practices.

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court observed that the MRTU & PULP Act specifically includes sales promotion employees but not working journalists, suggesting their intentional omission. The Working Journalists Act, alongside the Industrial Disputes Act, was deemed a complete code for journalists, conferring special status without amending the latter. The Hon'ble High Court noted that the Working Journalists Act incorporates certain provisions from the Industrial Disputes Act for journalists' benefit, treating them as workmen only for specific purposes. Consequently, the Hon'ble High Court concluded that working journalists are not 'employees' under the MRTU & PULP Act and directed the petitions back to the Single Judge for appropriate orders.

Regularization is right of an employee performing permanent service

The Chief Officer, Pen Municipal Council & Ors. v. Shekhar B. Abhang & Ors
(2024 SCC OnLine Bom 1268)

Brief Facts:

The Petitioner challenged the order passed by the Industrial Court, Thane, directing the regularization of the Respondent, a Clerk, as a Tax Inspector along with consequential benefits. The Petitioner argued against the regularization, citing the lack of proper competition and adherence to relevant rules for appointment.

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court held that mere continuance of employment does not warrant automatic regularization, it recognized that appointments must align with established rules and fair competition. The Hon'ble High Court rejected the notion of legitimate expectation for non-permanent staff but noted that continuous service similar to permanent employees merits consideration for regularization. In the present case, Respondent's valid appointment and over a decade of service made a compelling case for regularization, aligning with the Apex Court's stance in *Vinod Kumar* (above discussed) that the essence of employment rights evolves beyond initial terms, especially when the employment trajectory mirrors regular recruitment. Thus, the Hon'ble High Court concluded that denying regularization to the Respondent would contravene principles of equity and fairness, acknowledging the evolution of his employment status from temporary to one deserving permanency.

Employer's day to day functioning can not be at cost of employee's welfare

Prachi P. Kulkarni v. State of Maharashtra & Ors, (2024 SCC OnLine Bom 1351)

Brief Facts:

The Petitioners, who were retired employees of Respondent, sought payment for their pensionary benefits, which were not being paid as per the 7th Pay Commission. Instead, benefits as per the 6th Pay Commission were being paid, which led to grievances as there was a substantial difference between the both the Pay Commission pension.

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court stated that when the 7th Pay Commission was made applicable, the Respondent ought to have started securing funds and creating a corpus, but these efforts were not made. Consequently, the Hon'ble High Court observed that respondent/University, in respect of its own employees, could not refuse to consider paying any amount for one year, i.e., till June 2025, and thus, the Hon'ble High Court passed an interim order directing the Respondent to commence payment of pensionary benefits including dearness allowance as per 7th Pay Commission from 1-7-2024 onwards. In conclusion, it was stated that an employer's functioning cannot be at the cost of the employee's welfare, and such an institution is not expected to needlessly withhold the pensionary benefit of its retired employees.

Employees terminated by issuing a stigmatic order without conducting enquiry are entitled for reinstatement

State of Maharashtra v. Taramati Santosh Taji (2024 SCC OnLine Bom 1349)

Brief Facts:

The Petitioner, filed a writ petition against the judgment of Maharashtra Administrative Tribunal ("MAT"), reinstating the Respondent, Government employee on probation whose services were terminated on the grounds of misconduct. The Respondent was an Assistant Secretary (Technical) at Maharashtra State Board for Technical Education ("MSBTE") and a proposal was moved to discharge the Respondent due to unsatisfactory service. This order was challenged before the MAT, wherein it was set aside due to being unsustainable in law; the MSBTE was directed to reinstate the Respondent and pay back wages.

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court observed that the order of termination is a stigmatic order and that Petitioners were empowered to terminate the services of a probationer in case of misconduct, provided that such misconduct is proved after an opportunity of being heard is availed to the Respondent. However, the Petitioners did not follow the same procedure, and therefore, the Hon'ble High Court upheld the reinstatement order passed by the MAT.

Leave encashment once earned, constitutes employee's property

Dattaram Atmaram Sawant and Anrs v. Vidharbha Konkan Gramin Bank (2024 SCC OnLine Bom 1253)

Brief Facts:

The Petitioner, filed a writ of Mandamus to direct the Vidharbha Konkan Gramin Bank ("**Bank**") to pay the amounts of privilege leave standing to their credit with an interest. The Petitioners had resigned, and after tendering their resignations, they requested the Bank to encash their privilege leave. Aggrieved by this refusal, the Petitioner approached Hon'ble Bombay High Court.

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court stated that the right to leave is a statutory entitlement granted to employees as per the provisions of the law. Additionally, the Hon'ble High Court held that a leave encashment is akin to a salary, which is a property. Depriving a person of his property without any valid statutory provision would violate Article 300-A of the Constitution. Therefore, the Hon'ble High Court opined that any attempt to deprive an employee of pension, gratuity, or leave encashment without a statutory provision is untenable and stated that leave encashment which was acquired by the Petitioners constituted their property and any deprivation of such property without statutory backing is not permitted.

Interpretation of 'employee' performing supervisory duties

Jobi Joseph v. Cadbury India Ltd., (2024 SCC OnLine Bom 1193)

Brief Facts:

Petitioner worked for Cadbury India Ltd. until his services were terminated in 2012. The Labour Court held that the Petitioner was not an 'employee' Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("**MRTU & PULP Act**") making his Complaint challenging termination not maintainable. The Industrial Court upheld the Labour Court's decision.

Petitioner argued that he should be considered an 'employee' under the MRTU & PULP Act. They further, contended that even if not a 'workman' under the Industrial Disputes Act, 1947 ("**ID Act**") the Petitioner should be recognized as a 'Sales Promotion Employee' under the Sales Promotion Employees (Conditions of Service) Act, 1976 ("**SPE Act**").

Findings of The Hon'ble Bombay High Court:

The Hon'ble High Court observed that the Petitioner's role involved supervising sales personnel engaged in promoting Cadbury's products. It emphasized that overseeing individuals who are not direct employees of the company does not negate a manager or supervisor's supervisory role. The crucial factor in determining supervisory duties lies in the nature of the tasks assigned to the position rather than the employment status of those being supervised.

Therefore, the Hon'ble High Court concluded that while serving as Senior Sales Executive at Cadbury, the Petitioner performed supervisory responsibilities that did not align with the definition of a 'sales promotion employee' under SPE Act. Consequently, the Hon'ble High Court ruled that the Petitioner did not qualify as a 'workman' under Section 2(s) of the ID Act or as an 'employee' under Section 3(5) of the MRTU and PULP Act. As a result, the orders of the Labour and Industrial Courts, which found no error, were upheld. The writ petition was dismissed accordingly.

Emphasizing duties and functions test in defining ‘workman’ under the industrial disputes act

Godrej and Boyce Manufacturing Company Ltd. v. Shivkranti Kamgar Sanghatana, (2024 SCC OnLine Bom 938)

Brief Facts:

The Petitioner is a company that manufactures home appliances, while the Respondent is a union registered under the Trade Unions Act of 1926, representing the workers of the Petitioner’s establishment in Satara. In 2015, the Respondent presented a Charter of Demands seeking increased wages and benefits for these workers. After failed conciliation proceedings, the dispute was referred to the Industrial Tribunal for resolution. The Industrial Tribunal in Satara determined that 20 individuals listed in the Annexure to the Statement of Claim qualified as ‘workmen’ under Section 2(s) of the Industrial Disputes Act, 1947. Challenging this decision, the Petitioner filed a petition under Articles 226 and 227 of the Constitution against the order of the Tribunal.

Findings of The Hon’ble Bombay High Court:

The Hon’ble High Court highlighted that primary emphasis should be placed on the nature of the predominant duties performed. It further noted that these duties should not fall within the exceptions outlined in Section 2(s). If an employee falls under these provisions and is not covered by the proviso, they qualify as a ‘workman’, regardless of their designation or salary. The Hon’ble High Court further clarified that the main purpose of the employee’s role should be considered, rather than any additional tasks they may perform.

The Hon’ble High Court upheld the Tribunal’s decision, affirming that the employees in question, who perform manual, skilled, and unskilled tasks, cannot be classified as managerial or supervisory staff and should be considered as workmen. Additionally, the Hon’ble High Court ruled that the order was not a result of clear ignorance or disregard of legal provisions, leading to significant injustice. Regarding the exercise of writ jurisdiction, the Hon’ble High Court noted that typically, a detailed examination of evidence is not required. However, in this case, the Hon’ble High Court acknowledged the Petitioner’s contention that the Tribunal’s failure to thoroughly examine the evidence necessitated such scrutiny by the Hon’ble High Court. In dismissing the writ petition, the Hon’ble High Court concluded that there were no grounds to intervene under Articles 226 and 227 of the Constitution regarding the Tribunal’s decision.



Delhi High Court

Advocates are not eligible for maternity benefits

Delhi State Legal Services Authority v. Annwesh Deb (2024 SCC OnLine Del 2833)

Brief Facts:

Annwesh Deb, appointed as a Legal Services Advocate with Delhi State Legal Services Authority (“**DSLSA**”), was denied maternity leave due to the absence of provisions for Legal Services Advocates. The Hon’ble High Court initially ruled in her favour, stating that the Maternity Benefit Act, 1961, did not exclude working women from its benefits. DSLSA appealed, arguing that the Act only applies to employees, not consultants like Annwesh Deb, and her remuneration did not constitute ‘wages’ under an employment contract.

Findings of The Hon’ble Delhi High Court:

The Hon’ble Delhi High Court held that Advocates empanelled with DSLSA are not considered ‘employees’ and therefore, not eligible for maternity benefits under the Maternity Benefit Act, 1961. The Division Bench set aside an earlier order of a Single Judge, which directed DSLSA to provide medical, financial, and other benefits to its empanelled legal aid Counsel, Annwesh Deb. The Hon’ble High Court referred to Section 2(s) of the Maternity Benefit Act, 1961, and emphasized that Advocates empanelled with DSLSA operate on a day-to-day basis without fixed terms of engagement, indicating a professional relationship rather than employment. Allowing empanelled advocates to claim maternity benefits would, according to the Bench, lead to erroneous interpretation of the Act and have serious repercussions.

The Hon’ble High Court highlighted that Deb voluntarily agreed to be governed by the terms and conditions outlined during her empanelment, which did not include maternity benefits. Consequently, the Hon’ble High Court concluded that Deb is estopped from seeking maternity benefits under the Act, as they were not part of the agreed terms during her empanelment.

Wages have different meanings in different laws

Group 4 Securities Guarding Ltd. v. Secretary, Labour, Govt. of NCT of Delhi (2024 SCC OnLine Del 3818)

Brief Facts:

The Petitioner entity, engaged in providing security services, was issued a show cause notice for non-payment of bonus to its workmen. The dispute was referred to the Industrial Tribunal for adjudication. The Petitioner sought quashing of the award, arguing that the Tribunal erred in applying the definition of ‘wages’ from the Minimum Wages Act to the Payment of Bonus Act. The key issues in the case were:

- i. Whether the Tribunal erred in applying the Minimum Wages Act definition of ‘wages’ to the Payment of Bonus Act.
- ii. Whether the workmen were entitled to bonus based on minimum wages including all components of salary

Findings of The Hon’ble Delhi High Court:

The Hon’ble High Court held that the Tribunal erred in applying the Minimum Wages Act definition of ‘wages’ to the Payment of Bonus Act. The dispute was remanded to the Labour Court for fresh adjudication without unnecessary delays. The Hon’ble High Court emphasized that the legislative intent should be respected and the Payment of Bonus Act’s definition of ‘wages’ should be applied. The petition was disposed of accordingly and the dispute was remanded to the Labour Court for fresh adjudication without unnecessary delays. accordingly.

No work no pay principle does not apply in illegal termination

Manisha Sharma v. Vidya Bhawan Girls Senior Secondary School and Anr.
(2024 SCC OnLine Del 3813)

Brief Facts:

The Petitioner had challenged multiple orders by the Delhi School Education Department, alleged wrongful dismissal due to a grudge held by the Head of School (“HoS”), who claimed the Petitioner lacked necessary qualifications. Despite reinstatement with full back wages by the Directorate of Education (“DST”), subsequent orders denied these wages, leading to a contempt petition. The Petitioner contended that any denial of back wages should be predicated on evidence of gainful employment during the dismissal period, which was not presented. The Deputy Director of Education’s application of “no work no pay” was also contested based on established Court judgments.

Findings of The Hon’ble Delhi High Court:

The Hon’ble High Court quashed the contested orders, ruling in favour of the Petitioner without imposing costs. It determined that the DST’s finding of illegal dismissal warranted full back wages, and the “no work no pay” principle was inapplicable here, referencing Hon’ble Supreme Court and Hon’ble High Court judgments that provide exceptions to this rule. This case highlights the judicial stance on ensuring employees are fairly compensated in instances of wrongful termination and sets a precedent against the indiscriminate application of the “no work no pay” principle, especially without proof of the employee’s gainful employment during the period of dismissal.

Delhi high court quashes demand for recovery of differential higher salary paid after demotion

Kishore Kumar Makwana v. Union of India and Anr
(2024 SCC OnLine Del 3614)

Brief Facts:

The Petitioner joined the service as a Senior Research Assistant now redesigned as Economic Officer. Consequently, he was promoted as Research Officer and this period was extended for more than 14 years. Subsequently, on 13-07-2010, the Respondents decided to revert Petitioner to the post of Economic Officer and by an order stated to refix Petitioner’s pay by reducing the same to that of a Senior Research Assistant and sought to make recoveries as the Petitioner had continued to receive the higher salary of a Research Officer till 06-03-2013. Aggrieved by this Petitioner sought quashing of the order dated 25-08-2015 passed by the Central Administrative Tribunal.

Findings of The Hon’ble Delhi High Court:

The Hon’ble High Court observed that there is no challenge to the reversion per se, the Petitioner cannot be granted pay protection qua the pay being drawn by him after 06-03-2013. However, the Hon’ble High Court also opined that the Respondent’s decision to make recoveries of the differential amount for the period of 13-07-2010 to 06-03-20213 from the Petitioner, when they continued to pay Petitioner higher salary of a Research Officer is untenable. The Hon’ble High Court overturned the order and instructed that the Respondent’s demand for the refund of the differential higher amount paid to the Petitioner would stand quashed. Additionally, the Hon’ble High Court directed the Respondents to grant the Petitioner terminal dues, including pension, based on the salary the Petitioner had been receiving for 14 years as a Research Officer.

Karnataka High Court

Epf contribution for foreign workers struck down as unconstitutional

Stone Hill Education Foundation and Ors. vs. Union of India and Ors. (2024 SCC OnLine KAR 49)

Brief Facts:

In a significant development concerning the Employee Provident Fund (EPF), the Hon'ble Karnataka High Court has scrutinized amendments made in 2008 that impact International Workers. Previously, the EPF mandated contributions from both employers and employees, capped at a wage ceiling of 15,000 per month. However, the introduction of para 83 in the EPF and para 43A in the Employee's Pension Scheme ("EPS") removed this cap for International Workers, requiring contributions based on their total wages without an upper limit.

The petitioners challenged this amendment, arguing it contradicts the EPF Act by not imposing a wage ceiling for International Workers, thus placing an undue burden on employers. In contrast, the government defended the provisions, citing Bilateral Social Security Agreements ("BSSA") with several countries that extend EPF benefits to International Workers.

Hon'ble High Court's Observation:

The High Court's observations highlighted discrimination between Indian employees in non-BSSA countries and foreign employees from non-BSSA countries working in India, deeming it unjustifiable and in violation of Article 14 of the Constitution. The Court also noted that the amendments failed to align with the EPF Act's objectives, as they imposed an unlimited contribution threshold on International Workers, contrary to the established wage ceiling. Consequently, the Court declared the impugned provisions discriminatory, arbitrary, unconstitutional, and ultra vires, calling for a re-evaluation of the EPF Scheme to ensure fairness and compliance with the Act's original intent.

Leave encashment is legal right enforceable under the constitution of India

H Channaiah v. Chief Executive Officer and Ors (2024 SCC OnLine Kar 54)

Brief Facts:

The Petitioner, who served as a waterman, filed a writ petition to the Karnataka High Court for directing the Respondents to grant/clear arrears of encashment of earned leave. He was not paid his earned leave encashment upon his retirement. The Gram Panchayath released only a fraction of the earned leave amounting to Rs. 70,000/-, leaving an outstanding balance of Rs. 1,32,200. The Respondents argued that the Petitioner was merely a temporary employee and raised doubts regarding the authenticity of the documents furnished by the Petitioner.

Findings of The Hon'ble Karnataka High Court:

The Hon'ble High Court observed that the Gram Panchayath's contention was devoid of merit and affirmed the Petitioner's continuous employment after exhaustive examination of records. Consequently, the Hon'ble High Court placed reliance on various judgements that signified the importance of leave encashments and stated it to be an integral part of the employee's salary. Additionally, the Hon'ble High Court relied on Articles 19(1)(f), 21(1) and 300-A of the Constitution and granted the Petitioner his earned leave encashment. The Hon'ble High Court ordered the Gram Panchayath to pay the due earned leave encashment along with 6% interest within three months. Therefore, the Hon'ble High Court observed that Leave encashment can't be viewed as discretionary bounties but as legal rights enforceable under the Constitution.



Gujarat High Court

Terminating services of workers to deprive them of benefits is illegal

PWD and Forest Employees Union and Anrs v. State of Gujarat (2024 SCC OnLine Guj 2413)

Brief Facts:

The Petitioners, workmen of the Forests and Environment Department were subsequently terminated so as to deprive them of all the benefits under the Government Resolution dated 17-10-1988, which aimed to regularize the services and improve the conditions of daily-wage workers. Earlier, the Hon'ble Supreme Court had directed the state to extend the benefits of the Resolution to all daily-wage workers in the Forests and Environment Department who had served for more than five years. To the contrary, the State did not comply with this order and terminated the services of the Petitioner. As a result of this Petition was filed to challenge the termination and rejection of the benefits by the Respondent.

Findings of The Hon'ble Gujarat High Court:

The Hon'ble High Court observed that the services of the Petitioners were terminated on purpose so as to deprive them of all the benefits under the said Resolution, thereby rendering such termination of service as illegal. Consequently, the Hon'ble High Court issued orders such as the reinstatement of all Petitioners who were wrongfully terminated, extending the benefits of the Government Resolution to all eligible daily-wage workers and payment of back wages to the wrongfully terminated workers. In summary, the termination of services with an intention to deprive the workers of the benefits was held to be contrary to the principles of natural justice, and thus illegal.



Jharkhand High Court

Retirement benefits are fundamental rights of an employee without any legal barrier

Shrawan Kumar Das v. State of Jharkhand, (2024 SCC OnLine Jhar 1883)

Brief Facts:

The Petitioner filed the petition, seeking a direction upon the Respondents for payment of entire pensionary benefits, including pension, gratuity, general provident fund, leave encashment, etc. The Petitioner was dismissed from service; however, on the later challenge, the same was quashed and set aside by the appellate authority. On retirement, the Petitioner did not receive the required retirement benefits. The Respondents contented that as no decision was taken for granting the benefits, thus, they did not extend the same.

Findings of The Hon'ble Jharkhand High Court:

The Hon'ble High Court observed that the Respondent took a flimsy stand, which was not acceptable, and this was another glaring example of delay and laches on the Respondent's part for not extending the retirement benefits. The Hon'ble High Court stated it was the Constitutional and Fundamental Right of an employee to receive the retirement benefits if there were no legal impediments. Consequently, the Hon'ble High Court made Respondents liable to pay interest on the due amount at an appropriate rate to compensate the Petitioner.

Madhya Pradesh High Court

Employer is exempted from taking disciplinary action in case of termination of temporary employees for unsatisfactory performance

Maharishi Panini Sanskrit Evam Vedic University v. Kumari Rajani, (Misc. Petition No. 570 of 2021)

Brief Facts:

In this case, the Petitioner filed the current petition to contest the decision dated February 17, 2020, issued by the Presiding Officer of the Labour Court Ujjain. The challenged order reinstated the Respondent to their position with 50% back wages. The Petitioner argued that the respondent, who had been employed as a daily wage worker since March 4, 2013, had demonstrated unsatisfactory work performance and was terminated for serious misconduct. However, the Respondent countered that the Labour Court's ruling was made after careful examination of the evidence and should not be interfered with.

Findings of The Hon'ble Madhya Pradesh Court:

The Hon'ble High Court noted that the Petitioner's termination was attributed to inadequate job performance and serious misconduct. It emphasized that since the Respondent was not a permanent employee, no disciplinary procedures were necessary. Recognizing the Petitioner as an educational institution rather than an industry, the Hon'ble High Court highlighted that specific laws governing service conditions were overlooked by the Labour Court. The Hon'ble High Court acknowledged that the Respondent had worked for the Petitioner for more than 240 days in a year, as admitted by the Petitioner. The Hon'ble High Court further clarified that completing 240 days of work does not automatically confer rights to regularization under industrial laws but imposes obligations on the employer during termination. The Hon'ble High Court found that the termination was justified due to unsatisfactory performance and loss of trust in the respondent. It concluded that the termination was not based on misconduct but on inadequate job performance and loss of confidence in the employee. Consequently, the contested award was overturned, and the petition was granted.

Madras High Court

Retrospective salary and pension adjustment after retirement are illegal

*R. Rajamani v. State of Tamil Nadu,
(2024 SCC OnLine Mad 957)*

Brief Facts:

The Petitioner served as a Lab Assistant at Madurai Kamaraj University ('**University**') and was retired in 1988. He filed a writ petition seeking to invalidate the University's order, by virtue of which, the Petitioner's pension was reduced due to incorrect pay scale fixation. The Petitioner further prayed that the State and University be directed to reimburse the deducted amount with interest. The Petitioner contended that the University's order resulted in a reduction of pension due to incorrect pay scale fixation. The objection by the Local Fund Audit Department highlighted an erroneous higher pay scale fixation for the Petitioner. The University reduced the pension in December 2023 and issued the order on March 18, 2023, without prior notice to the Petitioner. Challenging these actions, the Petitioner initiated the petition.

Findings of The Hon'ble Madras High Court:

The Hon'ble High Court observed that the Petitioner had retired from service due to superannuation, terminating the employer-employee relationship between the Petitioner and the University. Consequently, the University lacked the authority to re-adjust the Petitioner's salary and associated benefits. Citing the precedent set in *Manonmaniam Sundaranar University v. State Of Tamil Nadu*, where it was established that only the Syndicate has the jurisdiction to appoint University staff and determine their salaries, the Hon'ble High Court concluded that retroactively revising the Petitioner's salary and pension benefits after retirement was not legally permissible. Therefore, the challenged orders were deemed invalid and overturned by the Hon'ble High Court. The Hon'ble High Court, in quashing the University's order, directed both the State and University to reimburse the deducted amount along with interest within 12 weeks from the date of receiving a copy of the order.

Date of commencement of selection to be taken into consideration for old pension scheme

*S. Achuthan v. The Secretary to Government
(2024 SCC OnLine Mad 1211)*

Brief Facts:

The Petitioner was appointed as a Maths teacher and subsequently was informed that there was no vacancy and received to report at a different location. Due to the administrative issues, there was a delay resulting in his ineligibility for the old pension scheme, which was replaced by the new contributory pension scheme. The Petition was filed to direct the Respondents to fix the date of service of the Petitioner for the old pension scheme.

Findings of The Hon'ble Madras High Court:

The Hon'ble High Court observed that the benefits must be extended by taking into consideration the period during which the selection process took place and not when the same was concluded and an appointment order was given. That the date of commencement of the selection process for the appointment has to be taken into consideration to extend the benefit of the old pension scheme. In conclusion, the Hon'ble High Court directed the Respondents to review the representations made by the Petitioner and enrol him under the old pension scheme.

Manipur High Court

Overpayment of salary and allowances can not be deducted from the retirement benefits

***K. Yangla v. State of Manipur
(2024 SCC OnLine Mani 134)***

Brief Facts:

The Petitioner reached the Manipur High Court against a gratuity order passed by the Office of the Accountant General (A&E), Manipur, ordering for recovering a sum of Rs. 7,21,073 /- from the gratuity payable to the Petitioner allegedly on account of over-payment of pay and allowances to the Petitioner, and praying for issuing direction to the State to refund the deducted amount of Rs. 1,89,889/- to the Petitioner within a stipulated period.

Findings of The Hon'ble Manipur High Court:

The Hon'ble High Court did not find evidence supporting the respondent's claim that the Petitioner was overpaid. The Hon'ble High Court concluded that there was no overpayment due to incorrect fixation of pay, and the deduction made by the respondents from the Petitioner's retirement benefits on this basis is not legally permissible.

The Hon'ble High Court held that the authorities should not be allowed to recover any excess amount already received from the Petitioner's retirement benefits, especially after the Petitioner's retirement. The Hon'ble High Court remarked that the retirement benefits are hard-earned, not gifts. Though the Petitioner consented to deductions, this doesn't excuse unjust actions by authorities. The Hon'ble High Court, after considering the facts, circumstances, discussions, and catena of decisions, held that the respondent's order to deduct Rs. 1,89,889 from the Petitioner's retirement gratuity was illegal and unsustainable. Thus, the Hon'ble High Court quashed the impugned order and directed that the deducted amount must be released to the Petitioner within two months from the date of receiving a certified copy of the order passed by the Hon'ble High court.

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