

RESEARCH QUESTION

"What protections does Indian law give a private-sector employee terminated without notice or cause, how do the Industrial Disputes Act and state Shops and Establishments Acts apply, who counts as a workman, and what remedies and forums exist?"

Protections and Remedies Against Wrongful Termination in the Indian Private Sector: Who Counts as a Workman and the Interplay Between the Industrial Disputes Act and State Shops and Establishments Acts

TL;DR

The Supreme Court in *Gammon India Limited v. Niranjan Dass* (1983) established that terminating an employee's services due to redundancy or recession without complying with the mandatory preconditions of Section 25F of the Industrial Disputes Act, 1947, is void *ab initio*, entitling the worker to reinstatement with back wages. For private-sector employees who qualify as "workmen," these central statutory protections supersede state-level Shops and Establishments laws, whereas non-workmen are limited to contractual damages in civil courts (*Nandganj Sihori Sugar Co. Ltd. v. Badri Nath Dixit* (1991)). Legal remedies thus hinge entirely on a factual determination of whether the employee's principal duties are technical, clerical, manual, or supervisory rather than purely managerial (*Sharad Kumar v. Govt. of NCT of Delhi* (2002)).

VERIFIED CASES	STATUTES	LATEST RULING
25	3	2023
13 High Courts · 12 SC		Orissa High Court

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Comprehensive Definition of Retrenchment

Under Section 2(oo) of the Industrial Disputes Act, 1947, "retrenchment" is interpreted broadly to cover any termination of a workman's service for any reason whatsoever, rather than being confined narrowly to surplus labor, unless a statutory exception applies. Consequently, even standard terminations or discharges simpliciter must adhere to the mandatory requirements of notice and compensation under Section 25F, as clarified in *Punjab Land Development and Reclamation Corporation Ltd. v. Presiding Officer, Labour Court* (1990).

02 Mandatory Requirements of Continuous Service

To trigger the protections of Section 25F (notice and retrenchment compensation), an employee must establish "continuous service" of at least one year under the employer. This statutory threshold is met if the workman has actually worked for at least 240 days within a consecutive twelve-calendar-month period, as shown in *Sur Enamel and Stamping Works (P) Ltd. v. Their Workmen* (1963).

03 Substantive Dominance of Central Labor Protection

When an establishment qualifies as an "industry" and its employees are "workmen" under the Industrial Disputes Act, the employer must comply with the central requirements of Section 25F even if the dispute or termination is litigated before state-level appellate forums under the Shops and Establishments Acts. This principle prevents employers from using state-level procedural acts to dilute the substantive federal protections of retrenchment compensation, as decided in *Krishna District Co-operative Marketing Society Limited v. N.V. Purnachandra Rao* (1987).

04 Nature of Duties Determines Workman Status

The determination of whether an employee is a protected "workman" under Section 2(s) of the Industrial Disputes Act is a purely factual inquiry focused on the primary nature of the duties performed, rather than the job title or designation. Employees performing supervisory work whose wages exceed the statutory ceiling, or those acting in a managerial capacity, are excluded from these protections, as illustrated in *Premani Products v. Mukundbhai M. Yagnik* (2014).

05 Labour Court's Discretionary Power to Direct Reinstatement

Where a workman is terminated without the compliance of Section 25F or without a valid domestic enquiry, the Labour Court has expansive powers to review the termination and order reinstatement with back wages. If no domestic inquiry was held, the employer still retains a right to lead evidence directly before the Labour Court to justify the dismissal on merits, as established in *Workmen of Firestone Tyre & Rubber Company of India (P.) Ltd. v. Management* (1973).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION

The apex court has repeatedly held that even temporary, daily-rated, or casual workers are entitled to the full protections of Section 25F if they satisfy the 240-day continuous service threshold, and that individual termination disputes can be raised directly as industrial disputes under Section 2A without requiring union espousal (*Chemicals & Fibres of India Ltd. v. D. G. Bhoir* (1975)). Furthermore, individual claims for monetary benefits or computed dues arising from such relationships are cognizable by the Labour Court under Section 33C(2), and these do not abate even upon the death of the aggrieved workman (*Rameshwar Manjhi v. Management of Sangramgarh Colliery* (1993)).

HIGH COURT VARIATIONS

High Courts have scrutinized employers' efforts to bypass retrenchment compensation through fixed-term contracts or allegations of voluntary abandonment, requiring strict documentary proof before accepting such defenses (*Municipal Corporation of Delhi v. Krishan Kumar* (2015)). High Courts have also reinforced that the statutory salary limit under Section 2(s)(iv) applies strictly to "supervisory" roles, meaning that high-earning operational or technical staff, such as pilots, may still be classed as workmen if they lack managerial authority (*Up Airways Ltd. v. Pritam Singh* (2015)).

RECENT EVOLUTION

Recent decisions from 2020 onwards emphasize that the High Courts will rigorously evaluate the specific duties of employees rather than accepting employer classifications, reinforcing that the statutory machinery is designed to prevent economic insecurity from arbitrary job loss (*Indian Farmers Fertilizer Co-operative Limited v. State of Odisha* (2023)).

UNSETTLED AREAS OR CAVEATS

Distinguishing Disciplinary Dismissals from Retrenchment

A critical caveat is that the protections of Section 25F do not apply to terminations effected as a disciplinary punishment for misconduct; however, such dismissals require a valid domestic enquiry complying with natural justice, failing which the employer must independently justify the termination before the Labour Court (*The Management of Assam State Textile Corporation Ltd. v. State of Assam and Ors.* (2022)).

Forums and Jurisdictional Overlaps

While Section 33C(2) offers a speedy executing remedy for computed monetary claims, it cannot be used by a dismissed workman to challenge the validity of their termination itself, which must instead be referred under Section 10 or agitated directly under Section 2A (*National Buildings Construction Corporation v. Pritam Singh Gill* (1972)). Similarly, the authority under the Payment of Wages Act cannot adjudicate complex, disputed claims for retrenchment compensation (*Payment of Wages Inspector v. Surajmal Mehta* (1968)).

II. Statutory Provisions 3 PROVISIONS

SECTION 2A, INDUSTRIAL DISPUTES ACT, 1947 — DISMISSAL, ETC., OF AN INDIVIDUAL WORKMAN TO BE DEEMED TO BE AN INDUSTRIAL DISPUTE

Establishes that any dispute regarding the discharge, dismissal, retrenchment, or termination of an individual workman is deemed an industrial dispute, even if unsupported by any union or other workmen.

"Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute." *Cited in:* Divisional Railway Manager v. Rambabu Kamath, Bombay Intelligence Security (I) Ltd. v. Harinarayan Jeet Bahadur Singh, Indian Farmers Fertilizer Co-operative Limited v. State of Odisha, Commissioner, Thiruvallur Municipality v. K. Sampath, Chemicals & Fibres of India Ltd. v. D. G. Bhoir, Management of CPWD v. Abdul Gaffar, M/s Birla Tyres Pvt. Ltd. v. State of Uttarakhand, Sharad Kumar v. Govt. of NCT of Delhi, Dhir Singh Beldar v. The Presiding Officer, Labour Court, Gurdaspur, Up Airways Ltd. v. Pritam Singh, Sur Enamel and Stamping Works (P) Ltd. v. Their Workmen

SECTION 30, DELHI SHOPS AND ESTABLISHMENTS ACT, 1954 — NOTICE OF TERMINATION OF SERVICE

Prohibits the termination of an employee with over three months of continuous service without at least one month's written notice or one month's wages in lieu of notice, except in cases of misconduct.

"the service of an employee who has put in more than three months' continuous service cannot be terminated without giving him at least one month's notice in writing or one month's wages in lieu of such notice except where the termination of service is for misconduct." *Cited in:* Not cited in the provided snippets.

SECTION 15, TRIPURA SHOPS AND ESTABLISHMENTS ACT, 1951 — REDRESSAL AND COMPENSATION FOR WRONGFUL TERMINATION

Allows employees terminated without sufficient cause to apply to a first-class Magistrate, who can order the employer to pay two months' wages as compensation.

"Any person employed in a shop or an establishment whose service... have been terminated in contravention of the provisions... may within one year from the date of such termination make an application to a Magistrate of the first class alleging such termination. The Magistrate... may... direct that such shop-keeper or employer shall pay two months wages as compensation" *Cited in:* Not cited in the provided snippets.

III. Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>National Buildings Construction Corporation v. Pritam Singh Gill</i> ESCR010000411973	SUPREME COURT OF INDIA	1972	Allows terminated workmen to recover pre-dismissal salary and benefits under Section 33C(2).
02	<i>Divisional Railway Manager v. Rambabu Kamath</i> HCMA011410252006	MADRAS HIGH COURT	2011	Restricts termination of temporary employees if done as disguised penalty without due inquiry.
03	<i>Bombay Intelligence Security (I) Ltd. v. Harinarayan Jeet Bahadur Singh</i> HCBM020253972007	BOMBAY HIGH COURT	2014	Classifies security guards under Section 2(s) and voids forced resignations as illegal termination.
04	<i>Indian Farmers Fertilizer Co-operative Limited v. State of Odisha</i> ODHC010006402009	ORISSA HIGH COURT	2023	Affirms that retrenchment compensation under Section 25F softens hardships of involuntary unemployment.
05	<i>Commissioner, Thiruvallur Municipality v. K. Sampath</i> HCMA011209162006	MADRAS HIGH COURT	2014	Extends Section 2(s) workman status and Section 25F protection to casual and temporary workers.
06	<i>Payment of Wages Inspector v. Surajmal Mehta</i> ESCR010001211969	SUPREME COURT OF INDIA	1968	Excludes complex retrenchment compensation disputes from the jurisdiction of Payment of Wages Authority.
07	<i>Municipal Corporation of Delhi v. Krishan Kumar</i> DLHC010280372004	HIGH COURT OF DELHI	2015	Holds that daily-rated workers completing 240 days acquire protected Section 2(s) workman status.
08	<i>Chemicals & Fibres of India Ltd. v. D. G. Bhoir</i> ESCR010002971975	SUPREME COURT OF INDIA	1975	Clarifies that Section 2A grants individual terminated workmen independent recourse without union sponsorship.
09	<i>Rameshwar Manjhi v. Management of Sangramgarh Colliery</i> ESCR010003701993	SUPREME COURT OF INDIA	1993	Rules that an individual dispute under Section 2A does not abate upon workman's death.
10	<i>Management of CPWD v. Abdul Gaffar</i> DLHC010353312007	HIGH COURT OF DELHI	2015	Affirms that termination without complying with Section 25F is illegal retrenchment under Section 2(oo).
11	<i>Banaras Ice Factory Limited v. Its Workmen</i> ESCR010000141957	SUPREME COURT OF INDIA	1956	Limits the scope of Section 22 protections to existing rather than dead or closed industries.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	<i>Punjab Land Development and Reclamation Corporation Ltd. v. Presiding Officer, Labour Court</i> ESCR010001771990	SUPREME COURT OF INDIA	1990	Defines retrenchment broadly as any termination unless specifically excluded by statutory exceptions.
13	<i>Workmen of Firestone Tyre & Rubber Company of India (P.) Ltd. v. Management</i> ESCR010002521973	SUPREME COURT OF INDIA	1973	Empowers tribunals under Section 11A to review dismissal justifications and alter disproportionate punishments.
14	<i>M/s Birla Tyres Pvt. Ltd. v. State of Uttarakhand</i> UKHC010002522015	HIGH COURT OF UTTARAKHAND	2023	Extends protection by applying supervisory wage ceilings only to employees holding actual supervisory duties.
15	<i>Gururaj R. v. Union of India</i> KAHC010089922015	HIGH COURT OF KARNATAKA	2020	Outlines direct application to Labour Court under Section 2A after forty-five days of conciliation.
16	<i>Superintendent of Post Offices, Mahabubnagar v. Balanarsamma</i> HBHC010289531999	HIGH COURT FOR STATE OF TELANGANA	2010	Reinforces workman's right to raise industrial disputes under Section 10 upon illegal termination.
17	<i>Krishna District Co-operative Marketing Society Limited v. N.V. Purnachandra Rao</i> ESCR010002851987	SUPREME COURT OF INDIA	1987	Enforces Central ID Act retrenchment rights over state Shops and Establishments Act provisions.
18	<i>Sharad Kumar v. Govt. of NCT of Delhi</i> ESCR010000952002	SUPREME COURT OF INDIA	2002	Determines workman status through principal nature of duties, not job designation or title.
19	<i>Nandganj Sihori Sugar Co. Ltd. v. Badri Nath Dixit</i> ESCR010003091991	SUPREME COURT OF INDIA	1991	Limits remedies for breach of personal service contracts to damages rather than specific performance.
20	<i>Gammon India Limited v. Niranjana Dass</i> ESCR010000671984	SUPREME COURT OF INDIA	1983	Declares termination due to business recession without Section 25F compliance as void ab initio.
21	<i>Dhir Singh Beldar v. The Presiding Officer, Labour Court, Gurdaspur</i> PHHC010618372009	HIGH COURT OF PUNJAB AND HARYANA	2010	Allows employers to lead evidence before Labour Court to justify termination on merits.
22	<i>The Management of Assam State Textile Corporation Ltd. v. State of Assam and Ors.</i> GAHC010243932012	GAUHATI HIGH COURT	2022	Distinguishes disciplinary dismissals from retrenchment, making Section 25F inapplicable to punitive discharges.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
23	<i>Up Airways Ltd. v. Pritam Singh</i> DLHC010444422012	HIGH COURT OF DELHI	2015	Establishes that pilot-commanders are workmen if principal duties are technical rather than managerial.
24	<i>Sur Enamel and Stamping Works (P) Ltd. v. Their Workmen</i> ESCR010001521964	SUPREME COURT OF INDIA	1963	Requires twelve months of employment with 240 active days to satisfy continuous service threshold.
25	<i>Premani Products v. Mukundbhai M. Yagnik</i> GJHC240109102007	HIGH COURT OF GUJARAT	2014	Excludes supervisors earning above statutory wage ceilings from Section 2(s) workman status.

IV. Case Details 25 CASE FILES

01 National Buildings Construction Corporation v. Pritam Singh Gill

SUPREME COURT OF INDIA • 1972-03-29 • 1972 INSC 97

The respondent, a former employee of the appellant, sought to recover salary and benefits for a period of suspension prior to his dismissal. He filed an application under Section 33C(2) of the Industrial Disputes Act, 1947, before the Labour Court, which ruled in his favour. The appellant challenged the jurisdiction of the Labour Court, arguing that a dismissed employee does not qualify as a 'workman' under the Act and thus cannot invoke Section 33C(2).

HELD The Supreme Court held that the Labour Court's execution-like power under Section 33C(2) must receive a broad and beneficial construction to prevent employers from defeating claims by terminating workmen. The term "workman" in Section 33C(2) includes all persons whose monetary claim arises from their historic relationship as an industrial workman.

"Therefore, the term 'workman' as used in the sub-section must include all persons whose claim, requiring computation under the sub-section, is in respect of Qll existing right arising from his relationshipP' as an industrial workman with his empley.ir."

SUPREME COURT OF INDIA • 1972

SOURCE ESCR010000411973

02 Divisional Railway Manager v. Rambabu Kamath

MADRAS HIGH COURT • 2011-01-12 • WP/23044/2006

This case involves two writ petitions challenging orders from the Central Government Industrial Tribunal regarding the termination of temporary railway employees. The core legal issue was whether the termination of temporary workers without a formal departmental enquiry violated Article 311(2) of the Constitution. The court examined whether such terminations were mere contract-based discharges or punitive actions intended to stigmatize the employees for alleged misconduct. Relying on Supreme Court precedents, the court clarified that while temporary servants are entitled to constitutional protection against punitive removal, an order that is innocuously worded on its face is not necessarily stigmatic unless it is proven that the termination was a disguised penalty based on findings of misconduct reached without due process.

HELD The High Court observed that Section 25F conditions apply absolutely to retrenchment unless excepted under Section 2(oo)(bb). While a discharge simpliciter must comply with Section 25F, any termination that acts as a disguised penalty or punishment must follow proper inquiry procedures to ensure due process.

“Thus if a discharge is simpliciter that it follows Section 2(oo) and the protection under Section 25F and if it is a penalty order, the same will have to follow the procedure for enquiry and ultimately to go by the procedure that offers protection as under Article 311(2).”

MADRAS HIGH COURT • 2011

SOURCE HCMA011410252006

03 Bombay Intelligence Security (I) Ltd. v. Harinarayan Jeet Bahadur Singh

BOMBAY HIGH COURT • 2014-02-21 • WP/2582/2007

The Respondent, employed as a security guard, alleged that his employer forced him to sign a resignation letter under duress and physical assault after he refused to provide a false statement against a branch manager. The Labour Court found that the employer committed unfair labour practices under the MRTU & PULP Act by effectively terminating the Respondent without following due process. The Court ordered the Respondent's reinstatement with continuity of service and full back wages. The Industrial Court subsequently confirmed this decision in a revision application. The High Court reviewed the matter, upholding the finding that the resignation was not voluntary and that the employer's actions constituted illegal termination.

HELD The High Court held that to determine whether an employee is a 'workman' under Section 2(s), courts must look past mere designations and examine the real nature of the duties performed. A supervisor is only excluded if they draw wages exceeding the statutory ceiling or exercise functions that are mainly of a managerial or administrative nature.

“The test, therefore, which is required to be applied is to consider in the facts of the case, as to what is the real nature of the work as being discharged by the concerned employee so as to determine whether he is a 'workman'.”

BOMBAY HIGH COURT • 2014

SOURCE HCBM020253972007

04 Indian Farmers Fertilizer Co-operative Limited v. State of Odisha

ORISSA HIGH COURT • 2023-10-18 • WP(C)/9842/2009

This case involved a dispute over the termination of 151 workmen by Oswal Chemicals and Fertilizers Ltd., whose facility was later acquired by the Indian Farmers Fertilizer Co-operative Ltd (IFFCO). The workmen alleged illegal termination without due process or compensation following their union activities. The Industrial Tribunal had previously issued an award regarding these terminations. Both the management and the workmen filed writ petitions challenging the Tribunal's decision. The High Court reviewed the claims concerning the validity of the terminations, the status of the workers, and the liability of the successor management to reinstate the employees with back wages.

HELD The High Court noted that Section 25F was enacted as a matter of humane public policy to prevent the dislocation of trade and economic insecurity that accompanies sudden, involuntary unemployment. The section standardizes compensation based on length of service to cushion the employee against being abruptly cast out.

“Section 25F of the Industrial Disputes Act, 1947 was enacted realizing the position that an employer could not be expected to carry the economic dead weight of surplusage of labour, the Legislature provided for the compensation under this section to soften the rigour of hardship resulting from an employee being thrown out of employment through no fault of his.”

ORISSA HIGH COURT • 2023

SOURCE ODHC010006402009

05 Commissioner, Thiruvallur Municipality v. K. Sampath

MADRAS HIGH COURT • 2014-12-17 • WP/11949/2006

The Thiruvallur Municipality challenged a Labour Court award that ordered the reinstatement of a daily wage worker who had been terminated without complying with the provisions of Section 25-F of the Industrial Disputes Act. The petitioner contended that the worker was a temporary employee and that the Industrial Disputes Act did not apply to him. The High Court, relying on Supreme Court precedents, held that temporary or casual workers are 'workmen' under the Act. Since the worker had completed 240 days of service in a year and the municipality failed to follow mandatory retrenchment procedures, the court upheld the Labour Court's decision that the termination was illegal and void.

HELD The High Court held that the definition of a "workman" under Section 2(s) is exhaustive and covers casual, temporary, and daily-rated employees. If such an employee has completed 240 days of continuous service, any termination without complying with Section 25F is void *ab initio*, even if the appointment did not strictly conform to recruitment rules.

“The definition takes within its ambit any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward and it is immaterial that the terms of employment are not reduced into writing.”

MADRAS HIGH COURT • 2014

SOURCE HCMA011209162006

06 Payment of Wages Inspector v. Surajmal Mehta

SUPREME COURT OF INDIA • 1968-12-03 • 1968 INSC 328

This case concerns the jurisdiction of the Authority under the Payment of Wages Act, 1936, to entertain a claim for retrenchment compensation under the Industrial Disputes Act, 1947. The Supreme Court ruled that while such compensation qualifies as 'wages' under the amended definition of the Payment of Wages Act, the Authority's jurisdiction under Section 15 of that Act is limited to specific instances of unauthorized deductions or delayed wage payments. Because the respondent disputed liability and the applicability of the statutory proviso

regarding continued employment, the Court held that the Authority lacked the jurisdiction to adjudicate this contested claim. The Court concluded that the proper forum for such disputes is the Labour Court under Section 33C(2) of the Industrial Disputes Act, which is equipped to handle complex questions of law and fact.

HELD The Supreme Court noted that while retrenchment compensation under Sections 25FF and 25FFF qualifies as "wages," these provisions do not contain preconditions of prior payment or notice in the same manner as Section 25F. Consequently, because transfer and closure do not bar the validity of the action itself, disputed compensation claims are not within the summary purview of the Payment of Wages Authority and must be resolved before the Labour Court.

"Since ss. 25FF and 25FFF do not contain any conditions precedent, as in the case of retrenchment under sec. 25F, and transfer and closure can validly take place without notice or payment of a month's wages in lieu thereof or payment of compensation, sec. 25FF can be said not to have provided any time within which such compensation is to be paid."

SUPREME COURT OF INDIA • 1968

SOURCE ESCR010001211969

07 Municipal Corporation of Delhi v. Krishan Kumar

HIGH COURT OF DELHI • 2015-11-27 • W.P.(C)/5513/2004

The petitioner, Municipal Corporation of Delhi, challenged a Labour Court award that declared the termination of a daily wage worker illegal. The court found that the workman had completed 240 days of continuous service, thereby acquiring the status of a workman entitled to protection under the Industrial Disputes Act. Because the corporation failed to follow the mandatory retrenchment procedures required under Section 25-F of the Act, and failed to provide evidence supporting the claim that the workman had voluntarily abandoned his job, the court upheld the Labour Court's decision.

HELD The High Court held that once a daily-rated worker renders 240 days of continuous service, their termination constitutes a retrenchment. If the employer fails to comply with the mandatory requirements of Section 25F regarding notice and notice pay, the termination is illegal, and any unproved defense of voluntary abandonment will be rejected.

"Therefore, assuming that he was a daily-rated worker, once he has rendered continuous uninterrupted service for a period of one year or more, within the meaning of Section 25-F of the Act and his service is terminated for any reason whatsoever and the case does not fall in any of the excepted categories, notwithstanding the fact that Rule 2505 would be attracted, it would have to be read subject to the provisions of the Act."

HIGH COURT OF DELHI • 2015

SOURCE DLHC010280372004

08 Chemicals & Fibres of India Ltd. v. D. G. Bhoir

SUPREME COURT OF INDIA • 1975-05-02 • 1975 INSC 118

This case concerned whether a strike by workers is rendered illegal under the Industrial Disputes Act simply because a reference involving a single workman's dismissal under Section 2A is pending before a Labour Court. The Court held that Section 2A was enacted to provide relief to individual workmen without requiring the collective espousal of their cause by the general body of employees. Consequently, it would be unreasonable to interpret the law as imposing a blanket ban on all strikes by the general workforce merely because an individual's dispute is pending adjudication. The court concluded that such a prohibition would only be justified if the general body of workmen had chosen to participate in or espouse the individual's cause.

HELD The Supreme Court observed that before the introduction of Section 2A, individual workmen whose services were terminated had no remedy under the ID Act unless their cause was espoused by a union or a substantial number of workmen. Section 2A was specifically enacted to bypass this hurdle, allowing individuals to seek relief independently.

"Before the introduction of section 2A an individual workman who was discharged, dismissed or retrenched or whose services were otherwise terminated and whose case was not espoused by any H labour union or by a substantial number of workmen had no remedy. It was to deal with that contingency that section 2A was enacted."

SUPREME COURT OF INDIA • 1975

SOURCE ESCR010002971975

09 Rameshwar Manjhi v. Management of Sangramgarh Colliery

SUPREME COURT OF INDIA • 1993-11-16 • 1993 INSC 370

This case addressed whether an industrial dispute under the Industrial Disputes Act, 1947, abates upon the death of the concerned workman during the pendency of adjudication proceedings. The Industrial Tribunal had previously ruled that the death of the workman rendered the reference infructuous, as reinstatement was no longer possible. The Supreme Court of India set aside this view, holding that an industrial dispute does not abate merely due to the death of the workman. The Court reasoned that legal heirs and representatives have a right to continue the proceedings to claim monetary benefits or back wages. Furthermore, the final determination of the dispute remains relevant for regulating conditions of service for other workmen, fulfilling the Act's objective of maintaining industrial peace.

HELD The Supreme Court ruled that an industrial dispute referred under Section 2A does not abate upon the death of the workman. Their legal heirs and representatives are fully entitled to continue the proceedings to seek an adjudication on whether the termination was lawful and to claim financial benefits such as back wages.

"We, therefore, hold that on the death of the workman, even when the reference is of an individual dispute under S.2A of the Act, the Tribunal does not become functus officio or the reference does not abate merely because, pending adjudication, the workman concerned dies."

SUPREME COURT OF INDIA • 1993

SOURCE ESCR010003701993

10 Management of CPWD v. Abdul Gaffar

HIGH COURT OF DELHI • 2015-12-10 • W.P.(C)/527/2007

The Management of the Central Public Works Department (CPWD) challenged a Labour Court award that declared the termination of three muster roll workmen illegal and ordered their regularization. The workmen had served for decades but were denied regularization due to lack of specific trade qualifications. The Management argued that regularization was not possible under the Umadevi judgment and that the workmen had refused offers for lower-level posts. The High Court upheld the Labour Court's decision, relying on Supreme Court precedent confirming that the prohibition against regularization in Umadevi does not apply to industrial adjudication. The Court found the workmen were entitled to regularization, affirming the Tribunal's authority to grant relief to ensure industrial peace and social justice.

HELD The High Court held that an employer's lack of qualification or failure to opt for regularization cannot authorize them to terminate services in violation of the Industrial Disputes Act. Any termination that does not fit into the narrow exclusions under Section 2(oo) is a retrenchment and requires strict adherence to Section 25F.

"According to the workmen, the termination of their services was retrenchment within the meaning of expression Section 2(oo) of the Industrial Disputes Act, 1947 since it did not fall in any of the three exception cases mentioned in Section 2(oo). Since there was retrenchment, it was bad for non-compliance with the provisions of Section 25F of the Industrial Disputes Act."

HIGH COURT OF DELHI • 2015

SOURCE DLHC010353312007

11 Banaras Ice Factory Limited v. Its Workmen

SUPREME COURT OF INDIA • 1956-11-28 • 1956 INSC 73

The appellant company closed its business due to financial difficulties and terminated its workmen. The workmen filed a complaint under the Industrial Disputes (Appellate Tribunal) Act, 1950, alleging that the company violated Section 22(b) of the Act, which prohibits discharging workmen during the pendency of an appeal without the tribunal's permission. The Supreme Court held that Section 22 of the Act applies only to an existing or running industry. A real and bona fide closure of business does not constitute 'discharge' within the meaning of the Act. Consequently, the Court ruled that the employer was not required to obtain permission from the tribunal to terminate services upon a genuine closure, as the law does not apply to a dead industry.

HELD The Supreme Court held that the protection of labor legislation under the Industrial Disputes Act is meant to ensure fair terms and prevent disputes within existing, active industries. Therefore, a genuine, bona fide closure of a business is not a "discharge" or "retrenchment" and does not apply to a dead industry.

"The objects mentioned above can have their fulfilment only in an existing and not a dead industry."

SUPREME COURT OF INDIA • 1956

SOURCE ESCR010000141957

12 Punjab Land Development and Reclamation Corporation Ltd. v. Presiding Officer, Labour Court

SUPREME COURT OF INDIA • 1990-05-04 • 1990 INSC 186

This case addressed the interpretation of 'retrenchment' under Section 2(oo) of the Industrial Disputes Act, 1947. The central issue was whether 'retrenchment' refers narrowly to the termination of services of surplus labor or broadly to any termination of service by an employer for any reason whatsoever, excluding specific exceptions like disciplinary action. The Supreme Court clarified that the definition must be given its wider, literal meaning rather than a narrow, contextual one. The court held that whenever an employer terminates a workman's service—unless specifically excluded by the statute—it constitutes retrenchment, thereby requiring compliance with statutory mandates such as notice and compensation, regardless of whether the termination resulted from surplus labor or other reasons.

HELD The Supreme Court held that the definition of retrenchment under Section 2(oo) is of the widest possible import, covering any termination of a workman's service for any reason whatsoever. It is not limited to the discharge of "surplus" labor, and any termination failing to meet the strict exceptions is a retrenchment requiring Section 25F compliance.

"according to this connotation retrenchment meant the discharge of surplus labour or staff by the employer for any reason whatsoever, otherwise then as a punishment inflicted by way of disciplinary action, and did not include termination of services of all workmen on the bona fide closure of industry or on change of ownership or management thereof."

SUPREME COURT OF INDIA • 1990

SOURCE ESCR010001771990

13 Workmen of Firestone Tyre & Rubber Company of India (P.) Ltd. v. Management

SUPREME COURT OF INDIA • 1973-03-06 • 1973 INSC 39

This case involved the interpretation of Section 11A of the Industrial Disputes Act, 1947, which was introduced by an amendment to grant Labour Courts and Tribunals wider powers to review the dismissal or discharge of workmen. The Supreme Court held that the provision allows Tribunals to examine the evidence and determine whether the dismissal was justified, including the power to alter the punishment. The court clarified that the 'materials on record' include evidence presented to the Tribunal, not just that from the domestic inquiry. Furthermore, the Court ruled that Section 11A is prospective and does not apply to industrial disputes that were referred for adjudication prior to the section's commencement on December 15, 1971.

HELD The Supreme Court clarified that Section 11A altered the existing law, allowing Labour Tribunals to reconsider evidence, satisfy themselves on whether misconduct is proven, and reduce disproportionate punishments. In cases where the domestic inquiry was defective or omitted entirely, the employer can adduce evidence before the Tribunal to justify its action.

“When a dispute is referred for adjudication and it is found that the domestic enquiry conducted by the management is defective or if it is found that no domestic enquiry at all had been conducted, the order of discharge or termination passed by the employer becomes, without anything more, unjustified”

SUPREME COURT OF INDIA • 1973

SOURCE ESCR010002521973

14 M/s Birla Tyres Pvt. Ltd. v. State of Uttarakhand

HIGH COURT OF UTTARAKHAND • 2023-05-24 • WPMS/2927/2015

The petitioner challenged a Labour Court award that reinstated a former employee who had been terminated. The employer argued that the respondent was not a 'workman' under the Industrial Disputes Act, 1947, because he served in a supervisory capacity and earned wages above the statutory threshold. The High Court rejected this contention, noting that the employer failed to prove the respondent held supervisory or managerial responsibilities. The Labour Court's finding that the respondent performed ministerial tasks was supported by evidence, including the testimony of the employer's own witnesses. Furthermore, the court upheld the finding that the termination was illegal as it failed to follow mandatory retrenchment procedures.

HELD The High Court clarified that under Section 2(s), the statutory wage ceiling (which was ten thousand rupees at the relevant time) only excludes an employee if they are employed in an actual supervisory capacity. An employer must present concrete evidence of supervisory or managerial functions to claim this exclusion.

“A plain reading of Section 2(s) of Industrial Disputes Act, 1947 would reveal that ceiling regarding wages prescribed under clause (iv) would be relevant only when a person is employed in supervisory capacity.”

HIGH COURT OF UTTARAKHAND • 2023

SOURCE UKHC010002522015

15 Gururaj R. v. Union of India

HIGH COURT OF KARNATAKA • 2020-10-07 • WP/50039/2015

The petitioners were recruited as Engineering Assistant Trainees by Bharat Electronics Ltd (BEL) in 2006. Following their successful completion of training, they were regularized and granted pay scales consistent with company policies and subsequent government-mandated pay revisions. The petitioners challenged a 2010 wage settlement between the management and the employees' union, arguing that the resulting restructuring reduced their basic salary and created pay inequities compared to employees with lower qualifications. They sought mandates to restore their higher pay scales and seniority benefits from their appointment date. The High Court of Karnataka reviewed the claims regarding the implementation of the revised pay structure. While the court examined the petitioners' grievances, it noted the complexities of administrative pay revisions and the impact of the settlement agreement.

HELD The High Court highlighted that Section 2A of the Industrial Disputes Act empowers an individual workman terminated by an employer to directly apply to the Labour Court or Tribunal for adjudication. This application can be made after forty-five days from applying to the Conciliation Officer, provided it is filed within three years of the termination.

“Notwithstanding anything contained in section 10, any such workman as is specified in sub- section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer”

HIGH COURT OF KARNATAKA • 2020

SOURCE KAHC010089922015

16 Superintendent of Post Offices, Mahabubnagar v. Balanarsamma

HIGH COURT FOR STATE OF TELANGANA • 2010-08-19 • WP/15489/1999

The respondent, a sweeper employed by the postal department, was terminated following a reorganization of duties. She challenged her termination before an Industrial Tribunal, which found the dismissal unjustified, noting the management failed to follow legal procedures or justify the termination. The Tribunal ordered partial backwages and directed that her service be treated as continuous for seniority and promotional purposes. The petitioner (Superintendent of Post Offices) challenged this award in the High Court, arguing that the postal department did not constitute an 'industry' under the Industrial Disputes Act and thus the Tribunal lacked jurisdiction. The High Court observed that this plea regarding maintainability was not raised before the Tribunal and upheld the findings.

HELD The High Court ruled that a person employed as a workman who is terminated without the employer following due statutory procedure has a right to raise an industrial dispute. The Tribunal's award holding the termination illegal and granting appropriate reinstatement or continuity reliefs will be upheld if supported by evidence.

“The definitions of the various clauses referred to supra goes to show that a person, who is employed as a workman under any management is terminated from service without following due procedure, he has a right to raise a dispute under the Act.”

HIGH COURT FOR STATE OF TELANGANA • 2010

SOURCE HBHC010289531999

17 Krishna District Co-operative Marketing Society Limited v. N.V. Purnachandra Rao

SUPREME COURT OF INDIA • 1987-08-03 • 1987 INSC 193

This case addressed whether an employer under the Andhra Pradesh Shops and Establishments Act, 1966, must comply with Section 25F of the Industrial Disputes Act, 1947, when retrenching workmen. The petitioner argued that the state law's provisions should prevail over the central act. The court ruled that there is no repugnancy between the two statutes. It held that if an establishment qualifies as an 'industry' and the employees are

'workmen' under the central act, the substantive rights and liabilities regarding retrenchment set forth in the Industrial Disputes Act must be applied, even when enforcing those rights through appellate authorities established under the state act. Consequently, the retrenchments were declared illegal for non-compliance with the central act.

HELD The Supreme Court held that the rights and liabilities of employers and workmen relating to lay-off and retrenchment must be determined in accordance with the Central Industrial Disputes Act. This central protection overrides and must be read into proceedings and reliefs under state-specific Shops and Establishments Acts.

"rights and liabilities of employers and workmen insofar as they relate to lay-off and retrenchment shall be determined in accordance with B the provisions of this Chapter."

SUPREME COURT OF INDIA • 1987

SOURCE ESCR010002851987

18 Sharad Kumar v. Govt. of NCT of Delhi

SUPREME COURT OF INDIA • 2002-04-11 • 2002 INSC 191

The appellant, an Area Sales Executive, challenged the termination of his employment. The State Government refused to refer his dispute to the Industrial Tribunal, concluding that he was not a 'workman' under Section 2(s) of the Industrial Disputes Act based solely on his job designation. The Delhi High Court upheld this refusal. On appeal, the Supreme Court held that the determination of whether an employee qualifies as a 'workman' requires an examination of the nature of duties performed rather than a reliance on job titles. Because this assessment requires a factual inquiry into specific duties and evidence, the Court ruled that the State Government overstepped its authority by deciding the issue prematurely. The matter was directed to be adjudicated by the Industrial Tribunal.

HELD The Supreme Court ruled that an employee's status as a workman under Section 2(s) must be determined based on their principal nature of duties and functions, rather than their designation. This is a factual question requiring evidence, and cannot be decided summarily based on job nomenclature.

"the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. The determinative factor is the main duties of the employee concerned and not some works incidentally done."

SUPREME COURT OF INDIA • 2002

SOURCE ESCR010000952002

19 Nandganj Sihori Sugar Co. Ltd. v. Badri Nath Dixit

SUPREME COURT OF INDIA • 1991-04-24 • 1991 INSC 111

The respondent filed a suit for a mandatory injunction to compel the appellant company to appoint him as an Instrumentation Foreman, relying on letters from the Chairman of the holding company and a alleged government scheme. The trial court dismissed the suit, but the lower appellate court and the High Court ordered

the appointment. The Supreme Court set aside these decrees, ruling that a contract of personal service cannot be specifically enforced under the Specific Relief Act. The Court held that the respondent failed to establish a concluded contract or any enforceable right, noting that employment disputes are typically remedied by damages rather than specific performance in the absence of statutory exceptions.

HELD The Supreme Court held that a contract of personal service is not specifically enforceable under the Specific Relief Act. In private-sector employment, unless an exception applies—such as constitutional protection for public servants or statutory reinstatement under industrial law—the only available remedy for wrongful termination is damages.

“a contract of personal service cannot ordinarily be specifically enforced and a Court normally would not give .. a declaration that the contract subsists and the employee even after having been removed from service can be deemed to be in service against the will and consent of the employer.”

SUPREME COURT OF INDIA • 1991

SOURCE ESCR010003091991

20 Gammon India Limited v. Niranjan Dass

SUPREME COURT OF INDIA • 1983-12-05 • 1983 INSC 188

The appellant-company terminated the respondent's employment, citing a recession-driven reduction in business volume. The Industrial Tribunal found the termination to be an illegal retrenchment due to the company's failure to comply with the statutory requirements of Section 25F of the Industrial Disputes Act, 1947. A Single Judge of the High Court later overturned this, classifying the action as a closure governed by Section 25FFF, which does not require prior compensation. On appeal, a Division Bench restored the Tribunal's award, ruling that the termination was clearly a retrenchment based on the notice provided. The Supreme Court affirmed the Division Bench's decision, confirming that the termination was a retrenchment rather than a closure, as the notice failed to mention any office closure. Since the company failed to follow the mandatory preconditions for valid retrenchment under Section 25F, the termination was declared void. The Court upheld the award of reinstatement and back wages.

HELD The Supreme Court ruled that a termination of service because an employee has become surplus due to business recession is a retrenchment. If the mandatory preconditions of Section 25F—such as notice or wages in lieu of notice and compensation—are not fulfilled, the retrenchment is *ab initio* void.

“The pre-requisite for a valid retrenchment as laid down in Section '25 F has not been complied with, and therefore the retrenchment bringing about termination of service is *ab initio* void.”

SUPREME COURT OF INDIA • 1983

SOURCE ESCR010000671984

21 Dhir Singh Beldar v. The Presiding Officer, Labour Court, Gurdaspur

HIGH COURT OF PUNJAB AND HARYANA • 2010-03-31 • CWP/14095/2009

The petitioner, a workcharged Beldar, challenged a Labour Court award that upheld his termination for abandoning his job. The petitioner contended that his absence was due to illness and that his termination without a disciplinary inquiry violated principles of natural justice and the Industrial Disputes Act. The management argued that the petitioner failed to report his illness or resume duties despite receiving registered notices, complying with the applicable Certified Standing Orders. The High Court found that the petitioner failed to prove his illness or medical claims and that the management had complied with the Standing Orders, which provided a procedure for termination due to unexplained absence. The Court concluded that the termination was legal and valid.

HELD The High Court held that even where no domestic inquiry has been conducted or where the inquiry held is defective, the Labour Court is not precluded from deciding the justification of the termination on its merits based on the pleadings and evidence led by both parties.

"It is now well settled that the Labour Court can even, where it holds that no inquiry has been held or the inquiry, if held, is not in accordance with law, can still proceed to decide on the basis of the pleadings and evidence led by the parties as to whether the Order of termination of the Workman is justified or not."

HIGH COURT OF PUNJAB AND HARYANA • 2010

SOURCE PHHC010618372009

22 The Management of Assam State Textile Corporation Ltd. v. State of Assam and Ors.

GAUHATI HIGH COURT • 2022-04-21 • WP(C)/127/2012

The petitioner challenged a Labour Court award that declared the dismissal of eight workmen illegal due to non-compliance with Section 25-F of the Industrial Disputes Act, 1947, which governs retrenchment procedures. The High Court clarified that the workers were dismissed as a disciplinary punishment rather than being retrenched. Because Section 25-F applies only to retrenchment and not to disciplinary terminations, the High Court set aside the Labour Court's award. The matter was remanded to the Labour Court for a fresh determination on whether the management was legally justified in dismissing the workmen based on the disciplinary grounds provided.

HELD The High Court clarified that Section 25F notice and compensation apply strictly to cases of "retrenchment" as defined under Section 2(oo). If a termination is executed as a punishment or disciplinary dismissal for unlawful acts, it is not a retrenchment and cannot be declared void for failure to comply with Section 25F.

"As the services of the workmen were terminated in the form of a punishment for the alleged unlawful acts stated in the order of dismissal, we have to conclude that the termination of services of the workmen were not a retrenchment but made in the form of a dismissal of their services by way of punishment."

GAUHATI HIGH COURT • 2022

SOURCE GAHC010243932012

Up Airways Ltd. v. Pritam Singh

HIGH COURT OF DELHI • 2015-07-02 • W.P.(C)/1490/2012

This case concerns the termination of a Senior Commander by Up Airways Ltd. The airline argued that the respondent was not a 'workman' under the Industrial Disputes Act, 1947, due to his high salary and managerial duties. The respondent challenged his termination, claiming he was primarily a pilot and that his duties were technical rather than managerial. The High Court reviewed the legal definition of a workman, emphasizing that an employee's designation is less important than their principal nature of duties. The court found that the determination of whether an employee performs supervisory or managerial functions requires a factual inquiry into their core responsibilities, rather than focusing on incidental tasks or job titles.

HELD The High Court held that the determination of whether an employee holds managerial or supervisory functions requires a detailed factual inquiry into their primary duties. If an employee is technical, clerical, or operational in nature (such as a pilot commander), they may still be classified as a workman under Section 2(s) despite high wages.

"It is a settled law that even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, has to give an opportunity to the employer and employee to adduce evidence before it."

HIGH COURT OF DELHI • 2015

SOURCE DLHC01044422012

24 Sur Enamel and Stamping Works (P) Ltd. v. Their Workmen

SUPREME COURT OF INDIA • 1963-05-07 • 1963 INSC 134

This case concerns the validity of an employee's dismissal and the entitlement of temporary workers to retrenchment benefits under the Industrial Disputes Act. The Court held that a domestic enquiry is only valid if it complies with natural justice: clearly stating charges, allowing the employee to cross-examine witnesses, permitting the employee to present a defense, and recording reasoned findings. Because the company failed to follow these standards, the Industrial Tribunal was justified in ignoring the enquiry results and ordering reinstatement. Additionally, the Court clarified that for a workman to qualify for benefits under Section 25F, they must complete one year of continuous service. This requires employment for at least 12 calendar months during which the workman has worked for at least 240 days. Simply working 240 days within a period shorter than 12 months does not satisfy this requirement.

HELD The Supreme Court held that to qualify for retrenchment protections under Section 25F, a workman must have completed one year of "continuous service." Under Section 25B, this requires a dual condition: employment spanning at least twelve calendar months, during which they must have actually worked for at least 240 days.

“A workman who had been in continuous service for not less than one year under an employer was entitled to certain benefits under s. 25F of the Industrial Disputes Act, 1947, and under s. 25B a workman who during a period of twelve calendar months had actually worked in an industry for not less than 240 days shall be deemed to have completed one year of completed service”

SUPREME COURT OF INDIA • 1963

SOURCE ESCR010001521964

25 Premani Products v. Mukundbhai M. Yagnik

HIGH COURT OF GUJARAT • 2014-04-07 • SCA/2534/2007

The petitioner challenged a Labour Court award that granted reinstatement and back-wages to the respondent following his termination. The central dispute was whether the respondent qualified as a 'workman' under Section 2(s) of the Industrial Disputes Act, 1947, or if he was excluded due to his managerial and supervisory duties, which involved a salary exceeding the statutory threshold at the time. The High Court found that the Labour Court erroneously ignored documentary evidence confirming the respondent's supervisory and managerial functions. Consequently, the High Court determined the respondent was not a 'workman' under the Act, lacked the protection of the Labour Court's jurisdiction, and set aside the reinstatement award.

HELD The High Court held that under Section 2(s), an employee is excluded from the definition of a workman if they are employed in a supervisory capacity and draw wages exceeding the statutory limit, or if they exercise functions that are mainly of a managerial nature.

“Section 2(s) of the I.D. Act at the relevant time was as Page 5 of 10 C/SCA/2534/2007 JUDGMENT under... but does not include any such person- (iii) who is employed mainly in a managerial or administrative capacity, or (iv) who, being employed in a supervisory ... draws wages exceeding”

HIGH COURT OF GUJARAT • 2014

SOURCE GJHC240109102007

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