

CASE LAW DIGEST ON LABOUR LAWS

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OVER THE PAST FIVE DECADES LABOUR LAWS IN THE COUNTRY MORE OR LESS

LAND MARK JUDGMENTS OF THE DECADE

2007	WORKMAN HAS TO PROVE 240 DAYS WORKING IN A YEAR BEFORE TERMINATION.
2006	EDUCATIONAL INSTITUTIONS ARE EXEMPTED FROM PROVISIONS OF E.P.F. ACT.
2005	DISMISSAL JUSTIFIED FOR SLEEPING DURING DUTY HOURS.
2004	A TEACHER, IS NOT EMPLOYEE, HENCE NOT ENTITLED TO GRATUITY.
2003	BACK WAGES ON REINSTATEMENT IS NOT AUTOMATIC.
2002	TERMINATION OF WORKMAN ENGAGED FOR SPECIFIC PERIOD WILL NOT BE RETRENCHMENT.
2001	ABANDONMENT OF EMPLOYMENT BY AN EMPLOYEE WITHOUT HOLDING OF ENQUIRY WILL NOT BE PERMISSIBLE.
2000	CONTRACT LABOUR WILL NOT BE AUTOMATICALLY ABSORBED ON ITS PROHIBITION BY GOVERNMENT.
1999	UNLESS THE SERVICE RULES SO PROVIDE A WORKMAN CANNOT BE REPRESENTED BY AN ADVOCATE IN AN ENQUIRY.
1998	NON-FURNISHING OF ENQUIRY REPORT TO EMPLOYEE ON DISMISSAL WILL NOT VITIATE THE SAME.
1997	NO WAGES TO EMPLOYEES WHEN THEY RESORT TO ILLEGAL STRIKE.

ABANDONMENT

An employee absenting from duty without prior sanction for about six months by sending applications for leave on medical ground but not supporting with medical certificates will be deemed to have lost the lien on the job when he has failed to avail the opportunity in replying in half-hearted way and not reporting for duty.

Hindustan Paper Corpn. v. Purnendu Chakrobarty and Ors., 1997 (2) LLN 1007

Abandonment of employment by an employee without holding of enquiry will not be permissible.

Scooters India Ltd. v. M. Mohammad Yaqub, 2001 LLR 54

The certified standing orders providing abandonment of employment when a workman absents for 10 consecutive days will not be legal.

Scooters India Ltd. v. M. Mohammad Yaqub, 2001 LLR 54

Absence of an employee due to police detention will not justify abandonment of job.

Om Prakash (Dead) by LR's v. Presiding Officer, Labour Court Rohtak & Anr., 2001 LLR 1116

Striking off name of a workman for his absence from the rolls will be illegal.

Lakshmi Precision Screws Ltd. v. Ram Bhagat, 2002 LLR 961: AIR 2002 (S) 2914: 2002 LIC 2968:2002 FLR (95) 43:2002 (3) LLJ 516:2002 (4) LLN 25

There will be no violation of the principles of natural justice on the part of the management when the workmen absenting unauthorisedly have failed to comply with two notice including calling them to return to duty and on their failure, their names were struck off from the rolls.

Uttar Pradesh State Bridge Corporation Ltd. & Ors. v. Uttar Pradesh Rajya Setu Nigam and Ors., 2004 LLR 289 (SC).

It would be proper for the management to presume voluntary abandonment of an employee, when he did not respond to their calls to join duties.

Viveka Nand Sethi vs Chairman, J&K Bank Ltd. & Ors. 2005 LLR 641

APPRENTICE

Apprentices under the Act have to go through examination / interview before they are to be appointed on regular basis.

U.P. Rajya Vidyut Parishad Apprentice Welfare Association & Anr. v. State of Uttar Pradesh & Ors., 2000 LLRL 869

Amongst trained apprentices, the seniors will be given preference for regular appointment.

U.P. Rajya Vidyut Parishad Apprentice Welfare Association & Anr. v. State of Uttar Pradesh & Ors., 2000 LLRL 869

Apprentice under the Act has no right to get absorbed.

Chairman/M.D. Mahanadi Coal Fields Ltd. & Ors. vs Sri Sadashib Behera & Ors.
2005 LLR 180

A trainee appointed under Govt. sponsored scheme, have no right to be regularised after scheme ends.

Dhampur Sugar Mills Ltd. vs Ghola Singh. 2005 LLR 320

No retrenchment compliance is needed in case of apprentice engaged under Apprentice Act.

National Small Industries Corporation Ltd. vs. V. Lakshminarayanan. 2007 LLR 154

BACK WAGES

Back wages to a workman will not be payable on his reinstatement who has been convicted but later acquitted in an appeal.

Ranchhodji Chaturji Thakore v. Super intending Eng., Gujrat Electricity Board and Anr., 1997(2) LLN 979

60% back wages will be appropriate relief when the strike was found to be illegal.

Life Insurance Corporation of India & Ors. v. Jyotish Chandra Biswas, 2000 LLR 1278

50% instead of 100% back wages on reinstatement will be appropriate when the workman had frequently absented.

Haryana Unrban Development Authority v. Devi Dayal, 2002 LLR 511: AIR 2002 (SC 1313: 2002 LIC 1090: 2002 (93) FLR 327: 2002 (2) LLN 450

While granting back wages on reinstatement to a workman, the Tribunal must give the reasons.

Hindustan Motors Ltd. v. Tapan Kumar Bhattacharya & Anr., 2002 LLR 925: 2002 LIC 2640: 2002 (94) FLR 741: 2002 (2) LLJ 1156

Back wages on reinstatement is not automatic since it is discretionary and has to be dealt with in accordance with facts and circumstances of each case.

Ram Ashrey Singh & Anr. v. Ram Bux Singh & Ors., 2003 LLR 415: 2003 (2) LLJ 176

Granting full wages on reinstatement will not be justified when the employee was regularly employed elsewhere.

Maharashtra Cotton Growers Market Federation Ltd. v. Choughule Popatrao Annaraheb & Anr., 2003 LLR 1071: 2003 (3) LLN 841

Denial of back wages on reinstatement will not be interfered but in view of the facts & circumstances of the case including the financial position of the Company and pendency of the proceedings before BIFR.

U.P. Drugs & Pharmaceuticals Co. Ltd. v. Ramanuj Yadav & Ors., 2003 LLR 1097: 2003 (99) FLR 331

When order of dismissal is set aside, granting of full back wages is not the natural consequence and depends upon the facts and circumstances of each case.

M.P. State Electricity Board v. Smt. Jarina Bee, 2003 LLR 848: 2003 (98) FLR 595: 2003 (3) LLJ 244

If an employee got involved in criminal case and after initial conviction gets acquittal on appeal, while reinstating him employer cannot be burdened with back wages.

Union of India & Ors. v. Jaipal Singh, 2004 LLR 1

In case of reinstatement, full back wages in not a rule of thumb.

General Manager, Haryana Roadways vs Rudhan Singh. 2005 LLR 849

Though no straight jacket formula can be devised for back wages grant, but when nothing is contributed by workman to industry in the period, back wages should not be thrown upon the employer to pay.

U.P. State Brassware Corpn. Ltd. & Anr. vs Udal Narain Panday. 2006 LLR 214

Pyament of back wages is not a natural consequence on setting aside the dismissal order.

U.P.S.R.T.C. Ltd. Vs. Sarada Prasad Misra & Anr. 2006 LLR 586

It is for the workman to prove that after termination, he was not gainfully employed.

Municipal Council, Sujanpur vs. Surinder Kumar. 2006 LLR 662

When charge was proved on one count and labour court had given lesser punishment, it being serious misconduct, back wages not warranted.

J.K. Synthetics Ltd. vs. K.P. Agrawal & Anr. 2007 I CLR 670

Even in the case of illegal termination, entitlement of back wages can not be automatic.

Divisional Controller, G.S.R.T.C. vs. Kadarbhai J. Suthar. 2007 LLR 401

Having regard to the fact that employee has been paid retiral benefits, this was not a fit case for granting back wages.

Banshi Dhar vs. State of Rajasthan. 2007 I LLJ 992.

Employee who remained under suspension but acquitted in appeal would not be entitled for back wages.

Banshi Dhar vs. State of Rajasthan and Anr. 2007 LLR 668

Back wages on reinstatement not proper when worker disputes the matter after 13 years.

State of Punjab vs. Anil Kumar. 2007 LLR 674

In case of gainful employment, no back wages.

National Thermal Power Corporation vs. Jawahar Lal and Another. 2007 LLR 788

BONUS

When for claiming bonus, alternate remedy is available, approaching with court directly will be wrong.

A.P. Foods vs. S. Samuel & Ors. 2006 LLR 892

T.N. Water Supply and Drainage Board is not exempted under the Payment of Bonus Act.

Tamil Nadu Water Supply & Drainage Board v. Tamil Nadu Water Supply & Drainage Board Engineers' Association & Ors., 1998 LLR 417

CHANGE OF DATE OF BIRTH

Failure of employee to make efforts for change of date of birth at the fag-end of service will not be sustainable.

State of Orissa & Ors. v. Shri Ramanath Patnaik, 1997 LLR 607: 1997-II LLN 1034: 1997 (2) LLJ 1022

Correction in date of birth by an employee cannot be sought at the fag-end of his career.

Hindustan Lever Ltd. v. S.M. Jadharo & Anr., 2001 LLR 501

Correction of date of birth by an employee long after his joining service will not be permissible.

G.M., Bharat Coking Coal Ltd. V. Shib Kumar Dushad & Ors., 2001 LLR 74

CHARGESHEET

Service of show-cause notice or charge-sheet by publication in newspaper not shown to be popular in the area will not be sufficient and initiation of disciplinary proceedings upon such defective service will be bad in law.

Union of India & Ors. v. Dinanath Shantaram Karcker & Ors., 1998 II LLJ 748 (SC): 1998 (80) FLR 446: 1998 LLR 1097

Issue of charge-sheet by Controlling Authority instead of Disciplinary Authority will not be illegal.

Steel Authority of India and Anr. v. Dr. R.K. Diwakar and Ors., 1998 LLR 343: 1998-I LLJ 344

Postal remarks 'not found' upon an envelop containing charge-sheet sent by registered post will not be deemed to have been served.

Union of India & Ors. v. Dinanath Shantaram Karekar & Ors., 1998 FLR 1097: 1998 (80) FLR 446

CONDITIONS OF SERVICE

Prohibiting bank employees to contest public bodies elections will not amount to change in service conditions.

General Manager (Operations), State Bank of India & Ors. v. State Bank of India Staff Union & Anr., 1998 LLR 402

Unless contravention about change in conditions of service is established, the Labour Court cannot pass an award in this context.

Blue Star Employees Union v. Ex Office Principal Secy. to Government & Anr., 2000 LLR 1285

Notice of change under section 9A of the Industrial Disputes Act will not be required while amending Certified Standing Orders.

Harmohinder Singh v. Kharga Canteen, Ambala Cantt. 2001 849

Pending disciplinary proceedings, change of service rules and issuance of termination will not be invalid.

Indian Drugs & Pharmaceuticals Ltd. & Anr. Vs. R.K. Shewaramani 2005 LLR 961

In the absence of fulfilling other requirements, workman even after completing six months of satisfactory service, can not be categorised as permanent under standing orders.

State of M.P. & Ors. vs. Onkar Prasad Patel. 2006 LLR 234.

CONTRACT LABOUR

Principal employer is liable to pay wages in case the contractor defaults and the term 'wages' includes balance or arrears thereof.

Senior Regional Manager, Food Corporation of India, Calcutta v. Tulsi Das Bauri & Ors., 1997 LLR 601

Regularisation of the workers employed through contractor in staff colony of Air India will be with consultation of the Board under Contract Labour (Regulation & Abolition) Act.

International Airports Authority Employees Union and Anr., etc. v. Airport Authority of India & Ors., etc., 1997 LLR 602

Employees having completed 240 days of service and engaged through unlicensed/unregistered contractors will be deemed as employees of principal employer.

secretary, Haryana State Electricity Board v. Suresh & Others, tec. tec., 1999 LLR 433 (SC): 1999-I CLR 959: 1999 (81) FLR 1016

The courts are empowered to lift the veil to determine the relationship of employer and employee.

Secretary, Haryana State Electricity Board v. Suresh & Others etc. etc., 1999 LLR 433(SC): 1999-I CLR 959

Equal wages will be payable even to the casual workers engaged through the contractor when they are doing the same work.

Food Corporation of India v. Shyamal K. Chatterjee, 2000 LLR 1293

Complaint for unfair labour practice will not lie for continuation of contract labour system.

Cipla Ltd. v. Maharashtra General Kamgar Union, 2001 LLR 305

Contract labour will not be automatically absorbed on its prohibition by Government.

Steel Authority of India Ltd. & Ors. Etc. v. National Union Water Front Workers & Ors. etc., 2001 LLR 961

Contract workers will be regularised when the principal employer has engaged them for discharging statutory obligations.

Steel Authority of India Ltd. & Ors. etc. v. National Union Water Front Workers & Ors. etc., 2001 LLR 961

Contractor's employees in a canteen will be treated as employees of principal employer.

Indian Petrochemicals Corporation Ltd. v. Shramik Sena, 2001 LLR 267

Employer will give preference when the contract agreement is found as ruse or camouflage.

Steel Authority of India Ltd. & Ors. etc., etc. v. National Union Water Front Workers & Ors. etc., 2001 LLR 961

In the absence of prescribed formalities, the prohibition of contract labour system is liable to be quashed.

L & T Mc Neil Ltd. etc. v. Government of Ramil Nadu, 2001 LLR 261

Employees working in a canteen being run in a factory under statutory obligation will be treated as regular employees.

V.S.T. Industries Ltd. v. V.S.T. Industries Workers' Union, 2001 FLR 101

It is not for the High Court to prohibit the contract labour system.

Municipal Corporation of Greater Mumbai v. K.V. Shramik Sangh and Others, 2002 LLR 966: AIR 2002 (SC) 1815: 2002 LIC 1672: 2002 (2) LLJ 544

Only appropriate Government can abolish contract labour and not the High Court.

Cipla Ltd. v. Maharashtra General Kamgar Union, 2001 LLR 305

Automatic absorption of contract labour will not follow on issue of notification for its abolition.

Nitinkumar Nathalal Joshi & Others v. Oil & Natural Gas Corporation Ltd. & Others, 2002 LLR 495: 2002 (2) Supreme 406

The gardeners engaged by a Government company through a contractor for upkeep of the parks inside the factory premises and its residential colony will be deemed as employees of the company.

Bharat Heavy Electricals Limited v. State of Uttar Pradesh & Ors., 2003 LLR 817: 2003-III LLJ 215: 2003(98) FLR 826

The direct relationship of employer and employee between the Company and the workers of the contractor could not be frustrated on the plea that the work of the gardeners was not connected with the work of the establishment.

Bharat Heavy Electricals Limited v. State of Uttar Pradesh & Ors., 2003 LLR 817: 2003-III LLJ 215: 2003(98) FLR 826

Fifty four persons working in a factory through the contractors are entitled for their regularisation when the principal employer is under statutory obligation to maintain a canteen.

National Thermal Power Corporation Ltd. v. Karri Pothuraju & Ors, 2003 LLR 1006: 2003-III LLJ 567: 2003 (99) FLR 8

Whether a particular relationship between employer and employees engaged through the contractor is genuine or camouflage is essentially a question of

fact to be determined on the basis of features of relationship hence to be adjudicated by the Industrial Tribunal and neither by the Administrative Tribunal nor by the High Court.

Ram Singh & Ors. v. Union Territory, Chandigarh & Ors., 2004 LLR 47

In the absence of proof of employment directly by society, claim of permanency of service with society by employees cannot be allowed.

Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu and Ors., 2004 LLR 351

When the canteen contractor is made responsible for statutory compliances with free hand about his employees, canteen workers will not be deemed as of Principal employer's employees.

Haldia Refinery Canteen Employees' Union and ors. vs M/s Indian Oil Corporation Ltd. and Ors. 2005 LLR 529

Absorption of contract labour would not be proper, when employer was not found to have adopted camouflage while engaging contract labour.

Employers in relation to the Management of Sudamdih Colliery of M/s. Bharat Coking Coal Ltd. vs. Their Workmen represented by Rashtriya Colliery Mazdoor Sangh. 2006 LLR 245.

In view of having no prohibition of Contract Labour under Contract Labour Act. by Govt., absorption of Contract Labour would not be legal.

A.P.S.R.T.C. & Ors. vs G. Srinivas Reddy & Ors. 2006 LLR 433

In the absence of any prohibition of contract labour notification, High Court can not direct absorption of contract labour.

A.P.S.R.T. Corporation and others & G. Srinivas reddy and others. 2006 FLR 515

Labour Court or High Court can not determine about abolition of contract labour.

Steel Authority of India Ltd. vs. Union of India & others. 2006 FLR 483

Direction of reengaging contract labours by principal employer on the ground they were working under supervision of principal employer is liable to be set aside.

Bharat Heavy Electricals Ltd. vs. Anil And others. 2007 LLR 201

Even if contract or casual workers complete 240 days, can not be regularised against the rules of selection.

Accounts Officer (A&I) APSRTC & Ors. vs. K.v. Ramana & Ors. 2007 LLR 338

Courts can not direct Govt. straight away to refer the dispute about abolishing contract labour system.

Rashtriya Chem. & Fertilizers Ltd. & Another vs. General Employees' Association & Others. LLR 898

DISMISSAL

Dismissal of an employee for presenting false medical bills will be justified.

Indian Oil Corporation Ltd. and Ors. v. Ashok Kumar Arora, 1997 LLR 335

Dismissal of an employee will take effect from the date of order and not from the date of award.

R. Thiruvirkolam v. The Presiding Officer & Anr., 1997 LLR 12

Dismissal by an authority higher than disciplinary authority who is competent to impose the punishment will not be invalid.

Balbir Chand v. Food Corpn. of India Ltd. and Others, 1997-II LLJ 879.

Punishment of dismissal will not be modified by the Labour Court when the employee has inflated quantum of milk supply and lost confidence of the management.

Punjab Dairy Development Corporation Ltd. & Anr. etc. v. Kala Singh, etc., 1997 LLR 778

Dismissal of an employee for addressing letters to Governor against the Management and issuing press statement against the Chairman of the Corporation will not be vitiated.

M.H. Devendrappa v. The Karnataka State Small Industries Development Corpn., 1998 LLR 356: 1998 (78) FLR 685

Dismissal of a workman found sleeping on duty will not be justified when his past conduct was not unsatisfactory.

Colour-Chem. Ltd. v. A.L. Alaspurkar & Ors., 1998 LLR 289: 1998 (78) FLR 625

Dismissal of an employee for sexual harassment at workplace will be justified.

Apparel Export Promotion Council v. A.K. Chopra, 1999 LLR 169

High Court can also modify the punishment of dismissal of a workman.

Senapathy Whiteley Ltd. v. Karadi Gowda and Anr., 200 FLR 364

A bus conductor can be dismissed for collecting incorrect fare.

Karnataka State Road Transport Corporation v. B.S. Hulli Kutti, 2001 LLR 259

Dismissal of a General Manager without documents supporting show cause notice and without fixing date, time or place of enquiry will be set aside.

Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant & Ors., 2001 LLR 1

Dismissal of a workman will be non est if approval of the appellate authority before whom industrial dispute is pending is not granted.

Managing Director, Tamil Nadu State Transport Corporation v. Neethivilangan, 2001 LLR 539

Dismissal of an office bearer of the Union guilty of distribution of pamphlets will not be interfered.

Dharampal (Dead) through Legal Heirs v. National Engineering Industries Limited & Ors., 2001 LLR 837

Dismissal of a workman involved in drunkenness, riotous and disorderly behaviour is to be set aside when others are reinstated.

Tata Engineering & Locomotive Co. Ltd. v. Jitendra Prasad Singh and Anr., 2001 LLR 80

When the approval of dismissal of a workman is not granted, it becomes ineffective from the date it was passed.

Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Shri Ram Gopal Sharma & Ors., 2002 LLR 237:2002 LIC 513:2002 (100) FJR 268:2002 (92) FLR 667: 2002 (1) T 182

Approval for dismissal of a workman will not be granted when one month's salary has not been paid.

Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Shri Ram Gopal Sharma & Others, 2002 LLR 237:2002 LIC 513:2002 (100) FJR 268:2002 (1) T 182:2002(92) FLR 667

Dismissal of a bus conductor allowing 16 passengers to travel without ticket after receiving the fare besides possessing used tickets intended to be used again will be justified.

U.P.S.R.T.C., Etawah & Ors. v. Hoti Lal & Anr., 2003 LLR 344

Dismissal for mere misplacement of a file without any ulterior motive is too harsh.

Dev Singh v. Punjab Tourism Development Corporation Ltd. & Anr., 2003 LLR 1025: 2003-III LLJ 823: 2003 (99) FLR 111

An employee will lose confidence if even during probation period he assaults an officer hence compensation in lieu of reinstatement will be appropriate relief.

Indian Railway Construction Co. Ltd. v. Ajay Kumar, 2003 LLR 337: 2003-III LLN 43

Dismissal of a cashier in a bank will be quashed and, as such, he will be entitled to full salary as subsistence allowance for the suspension period when the Investigating Agency has come to the conclusion that there was no fault on the part of the cashier since the fire has broken in the cash cabin and, as such, he cannot be even prosecuted.

Andhra Bank vs. W.T. Seshachalam, 2004 LLR 261: 2004 (100) FLR 608

Dismissal justified for sleeping during duty hours.

Bharat Forge Co. Ltd. vs Uttam Manohar Nakate. 2005 LLR 210

Dismissal of workman for abusing superior would be correct and justified.

Mahindra and Mahindra Ltd. vs N.B. Naravede etc. 2005 LLR 360

Workman assaulting G.M. causing injury, is rightly dismissed.

Employers, Management, Collery M/s Bharat Coking Coal Ltd. etc. vs Bihar collery Kamgar Union through Workmen. 2005 LLR 373

Dismissal justified for gherao of officers.

Onkar Nath Mishra Vs. State of Haryana And Anr. 2005 LLR 478

Dismissal of workman will be legal, even without inquiry, if situation has arisen out of grave incident.

Ajit Kumar Nag vs General Manager (P.J.) Indian Oil Corporation Ltd., Haldia & Ors. 2005 LLR 1137

Exoneration by employer to some employees on tendering unconditional apology, and dismissing other on proved charges of misconduct will not amount to discrimination.

M/s Obettee Pvt. Ltd. vs Mohd. Shafiq Khan. 2005 LLR 1167

Dismissal for assaulting principal by "chappal" justified even if superior was guilty of provocation.

Hombe Gowda EDN Trust & Anr. vs State of Karnataka & Ors. 2006 LLR 141

Dismissal justified for verbal abuse by employee.

L.K. Verma vs H.M.T. Ltd. & Anr. 2006 LLR 296

Even after acquittal in criminal case, punishment of dismissal can be awarded. E.O. & disciplinary authority are sole judges of facts. Strict procedure of court need not to adhere.

South Bengal State Transport Corporation vs Swapan Kumar Mitra & Ors. 2006 LLR 326

Order of dismissal by M.D. though not competent to do so, would be legal, even if ratified thereafter by the Board Directors.

Maharashtra State Mining Corporation vs. Sunil. 2006 LLR 815

Dismissal justified for detrimental duty causing financial loss to organisation due to pilferage.

Loss of confidence is natural in such a case. Divisional Controller, N.E.K.R.T.C. vs. H. Amaresh. 2006 LLR 930

Dismissal for not stopping the bus on signals from checking squad three times, is justified. U.P.S.R.T.C. vs. Mitthu Singh. 2006 LLR 1062

Dismissal for riotous behaviour justified. High Court's interference unwarranted.

M/s Amrit Vanaspati Co. Ltd. vs. Khem Chand and Anr. 2006 LLR 1076

Dismissal proper for remaining absent for three years.

General Manager, Appellate Authority, Bank of India and another vs. Mohd. Nizamuddin. 2006 LLR 1238

In case of fraud, misappropriation and breach of trust, setting aside dismissal will pollute the administration.

U.P. State Road Transport Corporation Dehradun Vs. Suresh Pal. 2006 LLR 1267

Bank Officer if found involved in fraud, deserve no leniency but only dismissal.

State Bank of India and Others vs. Ramesh Dinkar Punde. 2007 LLR 1

Dismissal of employee already passed may be set aside, when criminal case based on same facts and evidence, he was acquitted.

Jasbir Singh vs. Punjab & Sind Bank & Ors. 2007 LLR 96

Dismissal of workman found guilty of theft would be proper.

Depot Manager, Andhra Pradesh State Road Transport Corporation vs. Raghuda Siva Sankar Prasad. 2007 LLR 113

Removal from service justified for charging extra from passengers and pocketing the money by conductor.

Depot Manager, APSRTC vs. V. Swamy. 2007 LLR 752

While modifying the punishment of dismissal of an employee for misappropriation and violation of Employment Code, the court must give reasons in support of its conclusion.

U.P.S.R.T.C., Etawah & Ors. v. Hoti Lal & Anr., 2003 LLR 344: 2003-I LLN 843

E.P.F.

Discretion with Regional Provident Fund Commissioner only to reduce percentage of damages. He has no power to waive penalty altogether.

Regional Provident Fund Commissioner v. S.D. Colleg, Hoshiarpur & Others, 1997 LLR 186

Plea of delay of 14 years in recovering damages for late payment of EPF contributions will not be sustainable.

Hindustan Times Ltd.v. Union of India & Ors., 1998 LLR 97: 1998 (78) FLR 332

When production bonus is not linked with productivity, it will be deemed as 'basic wages' for provident fund contributions.

Daily Partap v. The Regional Provident Fund Commissioner Punjab, Haryana, Himachal Pradesh & Union Territory, Chandigarh, 1999 LLR1

Lump sum payment towards arrears of wages will be deemed to be as if paid on duty by to the employee for EPF contribution even when the employees were not actually working.

Changdeo Sugar Mills v. Union of India, 2001 LLR 188

Recovery of EPF contributions will be justified even when the employer has not deducted employees' share.

S.K. Nasiruddin Beedi Merchant Ltd. v. Central Provident Fund Commissioner, 2001 LLR 263

The employees' Provident Funds & Misc. Provisions Act is a social welfare legislation to provide for the employees' pension fund etc. and the same cannot be held to be violative of the Constitution.

Otis Elevator Employees' Union S. Reg. & Ors. v. Union of India & Ors., 2004 LLR 63: 2003 (99) FLR 1179

The employees of newspaper industry have always been treated as a class apart and as such not treating them as 'excluded employees' under the Employees' Provident Funds & Miscellaneous Provisions Act and Scheme by a notification issued in 1956, will not be unconstitutional.

Express Publications (Madurai) Ltd. and Another v. Union of India and Another, 2004 LLR 479 (SN)

Trainee engaged under Standing Orders will be outside the purview of the EPF Act.

The Regional Provident Fund Commissioner, Mengalore vs M/s Central Aercenut & Coca Marketing and Proceeding Co-op Ltd., Mangalore. 2006 LLR 263

Educational institutions are exempted from provisions of E.P.F. Act.

Regional Provident Fund Commissioner vs. Sanatan Dharam Girls Secondary School and Ors. 2006 III CLR 1046

Proprietor of one concern and MD of other - this fact is not sufficient to club the units under EPF Act.

Regional Provident Fund Commissioner vs. M/s. Raj's Continental Exports (P) Ltd.
2007 LLR 642

E.S.I.

ESI's contributions will be payable on the suspension allowance.

Regional Director, E.S.I. Corporation v. Popular Automobiles, etc., 1997 LLR 1146

Managing Director of a Company will be covered under the Act.

E.S.I. Corporation v. Apex Engineering (P) Ltd., 1997 LLR 1097

A partner will not be covered under the Act.

E.S.I. Corporation v. Apex Engineering (P) Ltd., 1997 LLR 1097

ESI Corporation cannot approach EI court for resolving any difference or dispute with an employee.

E.S.I. Corporation v. F. Fiber Bangalore (P) Ltd., 1997 LLR 225: 1997-1 CLR 403

Amended provisions for recovery of ESI contributions will have retrospective effect.

Vishaka & Ors. v. State of Rajasthan & Ors., 1997 LLR 991

An insured person for employment injury receives compensation or damages in a statute other than ESI Act since there is bar by section 53 of the Act.

Western India Plywood Ltd. v. Shri P. Ashokan, 1997 LLR1029

ESI cards not only should be duly stamped but must show due compliance of deposit of contribution.

Sovrin Knit Works, etc. v. E.S.I. Corporation & Anr., etc., 1997 LLR 197: 1997-II LLN 12

ESI Act will apply to a 'shop' or an establishment only when there are 20 eligible employees.

E.S.I. Corporation v. M/s. M.M. Suri & Associates (P) Ltd., 1998 LLR 1105: 1998 (80) FLR 839

The Directors of a company will not be prosecuted for default in deposit of ESI's contributions.

E.S.I. Corporation v. S.K. Aggarwal and Ors., 1998 LLR 806: 1998 (80) FLR 199

A notification issued by a State Government under the ESI Act will extend to all branches of the said establishment situated even outside the State.

Transport Corporation of India v. E.S.I. Corporation & Anr., 2000 LLR 113

Production incentives paid to the employees under Production Incentive Scheme in addition to normal wages when being paid quarterly i.e. exceeding two months will not be treated as 'wages' to attract the applicability of the ESI Act.

Whirlpool of India Ltd. v. E.S.I. Corporation, 2000 LLR 431

Different sales and service outlets will be clubbed for applicability of ESI Act even when none employed 10 or more employees.

Southern Agencies v. Andhra Pradesh E.S.I. Corporation, 2001 LLR 191

Equipment maintenance staff of a hospital will be covered under the ESI Act.

Christain Medical Colleg v. E.s.I. Corporation, 2001 LLR 60

An establishment providing consultanyc services will be deemed as a 'shop' for coverage under the ESI Act.

Kirloskar Consultants Ltd. v. E.S.I. Corporation, 2001 LLR 57

A Cinema / Theatre will be covered under ESI Act when there are 20 employees inclusive of contractor's employees.

Saraswath Films v. Regional Director, E.S.I. Corporation, Trichur, 2002 LLR 930

Non-payment of contributions will not affect the availing of ESI benefits by an employee.

Bharagath Engineering v. R. Ranganayaki & Anr., 2003 LLR 227

Interim relief amount paid under instructions from Govt. would be wages for ESI purpose.

Employees' State Insurance Corporation vs Gnanambigai Mills Ltd. 2005 LLR 905

ESI medical service are covered under consumer protection Act.

Chairman, Employees' State Insurance Corporation. 2007 LLR 740

Toddy "shop" is liable to be covered under ESI Act.

Bhaskaran vs. Asst. Director, Employees' State Insurance Corporation. 2007 LLR 1061

K.R. Anitha & Ors. v. Regional Director, E.S.I. Corporation & Anr., 2003 LLR 1075: 2003 (99) FLR 341

ENQUIRY

Unless prejudice is caused for non-supply of the recorded statement, an enquiry will not be vitiated.

State Bank of Patiala & Ors. v. S.K. Sharma, 1997 LLR 268

Refusal to permit representation by an advocate to an employee in the enquiry will not be violative of the principles of natural justice even when the Management is being represented by a law graduate and charges are not complicated.

Harinarayan Srivastava v. United Commercial Bank and Anr., 1997 LLR 497

Permission for representation by a retired employee in an enquiry is not permissible.

Food Corporation of India v. Bant Singh & Anr., 1997 LLR 807

Unless there is denial of reasonable opportunity to an employee, the enquiry will not be vitiated.

Jurisdiction of the High Court is very limited to interfere in departmental enquiries.

Indian Oil Corpn. Ltd. and Ors. v. Ashok Kumar Arora, 1997 LLR 335: 1997-I CLR 659

Penalty upon a bank manager based upon the elaborate enquiry will be justified even when the delinquent employee had no opportunity to cross-examine the witnesses.

Tara Chand Vyas v. Chairman & Disciplinary Authority & Ors., 1997 LLR 409: 1997-I CLR 809

Non-furnishing of enquiry report to employee on dismissal will not vitiate the same.

Union Bank of India v. Vishwa Mohan, 1998 LLR 420

Orient Insurance Co. Ltd. v. S. Balakrishnan, 2001 LLR 753

An employee called upon to submit his explanation should be furnished with copies of the statements during preliminary enquiry and copies of other documents proposed to be utilised.

State of U.P. v. Shatrughan Lal & Anr., 1998 II LLJ 799

In the absence of any material to show that the relevant documents were sought for and refused, an enquiry cannot be held to be bad in law.

Food Corporation of India v. B.J. Jambulkar 1998 II LLJ 852

An advocate though an outsider will have the normal powers of an enquiry officer.

Management of Thanjavur Textiles Ltd. v. B. Purshotham & Others, 1999 LLR 520 (SC): 1999 (82) FLR 56

Unless the service rules so provide a workman cannot be represented by an advocate in an enquiry.

Cipla Ltd. & Ors. v. Ripu Dama Bhanor & Anr., 1999 LLR 534 (SC): 1999-II LLN 1032: 1999(82) FLR 225

If the set of facts for criminal proceedings and departmental proceedings are identical the latter cannot be proceeded with.

Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. & Another, 1999 LLR 499 (SC): 1999-I CLR 1032

An employee has no right to representation in departmental enquiry unless the service rules so provide.

Bharat Petroleum Corpn. Ltd., v. Maharashtra General Kamgar Union & Ors., 1999 LLR 180

Enquiry conducted on the back of employee for his termination will be vitiated and termination will be set aside.

Dipti Prakash Banerjee v. S.N. Bose National Centre for Basic Sciences Calcutta & Ors., 1999 LLR 447

Once domestic enquiry is found to be defective the employee would be entitled to relief.

Neeta Kaplish v. Presiding Officer, Labour Court & Anr., 1999 LLR 122

Non-examination of a customer during enquiry will not be fatal in awarding punishment to a cashier for misappropriation.

State Bank of India v. Tarun Kumar Benerjee & Ors., 2000 LLR 1274

Examination of witnesses on the unscheduled date will not be violative of principles of natural justice.

Uttar Pradesh State Road Transport Corporation & Ors. v. Ram Chandra Yadav, 2000 LLR 1140

Dismissal of a bus conductor for collecting excess fare but not issuing tickets, misappropriating money and misbehaving with the checking staff after holding of enquiry will be justified. The judgment of High Court in setting aside the dismissal on the plea that the principles of natural justice have been violated will not be sustainable.

U.P. State Road Transport Corporation & Ors. v. Musai Ram & Ors., 2000 LLR 1

Denial of opportunity to the delinquent by the Disciplinary Authority differing with the enquiry officer will be unjustified.

State Bank of India & Ors. V. Arving K. Shukla, 2001 LLR 834

When delinquent does not cooperate despite opportunities, ex parte enquiry will be justified.

New India Insurance Co. Ltd. v. S.M.I. Khazim & Ors., 2001 LLR 825

Employer can lead evidence before Labour Court/Tribunal even when no enquiry has been held.

Karnataka State Road Transport Corporation v. Smt. Lakshmidevamma, 2001 LLR 529

Subsistence allowance of the workmen can be reduced for delaying enquiry.

B.D., Sheety & Ors. v. M/s. Ceat Ltd. & Anr., 2002 LLR 2

Disallowing to adduce two witnesses will not be invalid if all the documents were provided to the delinquent.

Debotosh Pal Choudhary v. Punjab National Bank & Ors., 2002 LLR 1169: 2002 LIC 3264: AIR 2002 SC 3276:2002 (95) FLR 338: 2002 (4) LLN 826

Dispensation of enquiry resulting into dismissal of an employee for alleged misconduct must be supported with justifiable material.

Indian Railway Construction Co. Ltd. v. Ajay Kumar, 2003 LLR 337: 2003 (97) FLR 422

A delinquent employee must be given opportunity by Disciplinary Authority disagreeing with the findings of the Enquiry Officer. Also, it will immaterial whether any prejudice is caused or not to the delinquent since there will be violation of the principles of natural justice.

State Bank of India and Others. v. K.P. Narayanan Kutty, 2003 LLR 519: 2003-I LLJ 839

No bias of the Disciplinary Committee can be attributed when eight out of eleven members of the Disciplinary Committee have accorded their approval.

Indra Bhanu Gaur v. Committee, Management of M.M. Degree College and Ors., 2004 LLR 228

Disciplinary Proceedings and Criminal case can go on simultaneously.
Hindustan Petroleum Corporation Ltd. & Ors. vs Sarvesh Berry. 2005 LLR 193

On the basis that Enquiry Officer is employee of company, can not be concluded that he will hold workman guilty. The General Secretary, South Indian Cashew Factories Worker's Union vs. The Managing Director, Kerala State Cashew Development Corporation Ltd. & Ors. 2006 LLR 657

In the absence of prejudice, neither chargesheet, nor enquiry will be vitiated. Om Prakash Mann vs. Director of Education (Basic) & Ors. 2006 LLR 1121

Employee has no right to be represented by any other person or lawyer in enquiry unless service rules provide so.

Management of National Seeds Corporation Ltd. vs. K.V. Rama Reddy. 2007 LLR 73

While differing with the findings of enquiry officer, disciplinary authority should give notice to workman before inflicting punishment.

Lav Nigam vs. Chairman and MD, ITI Ltd. and Another. 2007 LLR 558

Vague chargesheet and relevant material not supplied and hence not guilty.

Government of A.P. vs. A. Ventaka RAidu. 2007 1 LLJ 1004

Refusal to be represented by lawyer in enquiry is right when management was also not represented by legally trained person.

Shiraz Golden Restaurant vs. Commercial Shop & Fac. Est. Union and Others. LLR 897

If no proper enquiry held, employer can hold fresh enquiry.

U.P. Cooperative federation Ltd. and others & L.P. Rai. 2007 (114) FLR 1039

Wild allegation are not sufficient to vitiate disciplinary proceedings.

Bank of India & Ors. vs. T. Jogram. 2007 LLR 1009

Non-furnishing of enquiry report to the delinquent would not vitiate the enquiry.

Debotosh Pal Choudhary v. Punjab National Bank & Ors., 2002 LLR 1169; 2002 LIC 3264; AIR 2002 SC 3276; 2002 (95) FLR 338; 2002 (4) LLN 826

Enquiry officer has no power to inflict punishment on delinquent employee.

M/s. Maharashtra State Seeds Corpn. Ltd. vs Haridas & Anr. 2006 LLR 376

Even in a case of getting job on the basis of forged certificate, for termination, enquiry is must.

P.S.E.B. and others vs. Leela Singh. 2007 LLR 590

FACTORIES ACT

An 'occupier' of the factory owned by a government company need not be a director.

Indian Oil Corporation Ltd. v. The Chief Inspector of Factories & Ors. etc., 1998 LLR 769

'Premises' occurring in section 2(m) of the Factories Act covers open land also.

Lal Mahammand & Ors. v. Indian Railway Construction Co. Ltd. & Ors., 1999 LLR 100

High Court or Supreme Court will not quash FIR lodged by the Factory Inspector.

S.M. Datta v. State of Gujarat & Anr., 2001 LLR 1076

FIX TERM EMPLOYMENT

Termination of contract employment after two years will not amount to retrenchment.

Birla VXL Ltd. v. State of Punjab and Ors., 1998 LLR 1167

Non renewal of contract of service will be retrenchment under U.P. Industrial Disputes Act in the absence of relevant provisions of law.

Uttar Pradesh State Sugar Corporation Ltd. v. Om Prakash Upadhyay, 2001 LLR 1220

Principles of natural justice will not apply on automatic termination of service.

Harmohinder Singh v. Kharga Canteen, Ambala Cantt, 2001 LLR 849

Termination of workman engaged for specific period will not be retrenchment.

Haryana State F.C.C.W. Store Ltd. and Anr. v. Ram Niwas & Anr., 2002 LLR 865: 2002 LIC 2664: 2002-II LLJ 1153:2002 (3) LLN 746

Automatic termination of employment based on specific undertaking will not be interfered.

Dr. Anil Bajaj v. Post Graduate Institute of Medical Education and Research & Anr., 2002 LLR 308: 2002 LIC 2320: AIR 2002 (SC) 2414: 2002 LLN 889: 2002 (2) LLJ 526: 2002(2) All. CJ 934

Termination of a casual workman appointed for specific period on specific work, will not be retrenchment.

Batala Cooperative Sugar Mills Ltd. vs Sowaran Singh. 2005 LLR 1211

Employee on fixed term employment extended from time to time will not get permanent status.

Kishore Chandra Samal vs. The Divisional Manager, Orissa State Cashew Development Corporation Ltd., Dhenkanal. 2006 LLR 65

When engagement and extensions of a workmen was for a fixed period, termination would not be retrenchment.

Punjab State Electricity Board vs. Darbera Singh. 2006 LLR 68

Reinstatement of person engaged on contractual basis would be illegal as it would not be retrenchment.

The Harayana State Agriculture Marketing Board vs Subhash Chand & Anr. 2006 LLR 393.

Termination of Contractual employee will neither amount to retrenchment nor unfair labour practice.

Haryana State Agricultural Marketing Board vs Subhash Chand and another. 2006 LLR 533

Predecided short lived appointment and his termination will be covered under Sec. 2(oo) (bb) of I.D. Act. and will not be a retrenchment.

Municipal Council, Samrala Vs. Raj Kumar. 2006 LLR 583

Despite appointment and discharging three times in 18 months, contractual appointment employee will be out of purview of retrenchment.

Municipal Council, Samrala vs. Sukhwinder Kaur. 2006 LLR 1009

Termination of workman appointment of fix term, after scheme completed will be out of retrenchment.

State of Rajasthan vs. Sarjeet Singh & Anr. 2007 LLR 7

Termination of casual workman after fixed period does not attract Sec. 25H of I.D. Act.

Regional Manager, SBI vs. Mahatma Mishra. 2007 LLR 98

Principle of last come first go will not come in to operation when person is terminated due to non renewal of fixed term contract.

Bhogpur Co-operative Sugar Mills Ltd. vs. Harmesh Kumar. 2007 LLR 183

Termination of a casual workman appointed for specific period on specific work, will not be retrenchment.

Batala Cooperative Sugar Mills Ltd. vs Sowaran Singh. 2005 LLR 121

GRATUITY

Compensation of Rs. 50,000 will be payable for withholding gratuity for three years.

Mohd. Zaheeruddin Siddiqui v. Executive Council, A.M.U. And Anr., 2000 LLR 458

Budget Speech of Finance Minister will not justify the claim for higher gratuity.

Shitla Sharan Srivastava & Ors. v. Govt. of India & Ors., 2001 LLR 898

An employee has an option to claim gratuity where it is more beneficial.

E.I.D. Parry (I) Ltd. v. G. Omkar Murthy & Ors., 2001 LLLR 497

Incentive payment of bonus will not be 'wages' for calculation of gratuity.

T.I. Cycles of India, Ambattur v. M.K. Gurumani and Ors., 2002 LLR 57

Interest on delayed payment of gratuity will be payable by employer when the delay is not because of fault on the part of the employee.

H. Gangahanume Gowda v. Karnataka Agro Industries Corporation Ltd., 2003 LLR 354: 2003-1 LLN 805

A teacher, though engaged in very nobel profession of educating the young generation but neither performing any skilled, semi-skilled or unskilled, manual or supervisorh, technical work, will not be an 'employee' under section 2(e) of the Payment of Gratuity Act, thus not entitled to gratuity under the Act.

Ahmedabad Pvt. Primary Teachers v. Administrative Officer & Ors., 2004 LLR 97

Even though the Government by its notification dated 3rd April, 1997, has extended the Payment of Gratuity Act upon the educational institutions also but the teachers being not 'employees' under the Act will not be eligible for gratuity.

Ahmedabad Pvt. Primary Teachers v. Administrative Officer & Ors., 2004 LLR 97

Workman not entitled to take the benefit of both employment contract and amended Law under Payment of Gratuity Act. Beed District Central Co-op. Bank Ltd. vs. State of Maharashtra & Ors. 2006 III CLR 667

Services rendered by employee in different units of same establishment has to be considered for gratuity calculation.

M.C. Chamaraju vs. Hind Nippon Rural Industrial (P) Ltd. 2007 LLR 1129

INDUSTRY

Dandakarnya Project is an 'industry' under section 2(j) of the Act.

Managemetn of Dandakaranya Project Koreput v. Workmen through REhabilitation Employees Union & Others, 1997 LLR 193: 1997-II LLN 39

Physical Research Laboratory is not an 'industry' even though carrying on its activities in a systematic manner with the help of employees.

Physical Research Laboratory v. K.G. Sharma, 1997 LLR 401: 1997-II LLN 668

Industry and reference- Respondent was appointed on daily wages in a project. He was discharged on closure of project. State is not an 'industry' under the I.D. Act.

Executive Engineer (State of Karnataka) v. K. Samasetty & Ors., 1997 LLR 889

Irrigation Department of a State will not be an 'industry'.

Executive Engineer (Stae of Karnataka) v. K. Somasetty & Ors., 1997 LLR 889

Central Ground Water Board will not be industry under the I.D. Act.

Union of India v. Jai Narain Singh, 1997 LLR 1108

Postal Department is 'industry' as defined by section 2(j) of the I.D. Act.

General Manager Telecom v. Srinivasa Rao & Ors., 1998 LLR 8

Agricultural Produce Market Committte is an 'Industry'.

Agricultural Produce Market Committee v. Sh. Ashok Hari Kunj & Anr. etc., 2000 LLR 1251

A housing society will not be 'industry', hence its employees will not be 'workman' under Industrial Disputes Act.

Management of SOM Vihar Apartment Owners Housing Maintenance Society Ltd. v. Workmen C/o. Indian Engineering and General Mazdoor, 2001 LLR 599

Forest depratment of State of Gujarat will not be an industry under I.D. Act.

State of Gujarat & Ors. v. Pratamsing Narsing Parmar, 2001 LLR 732

Charitable trust will be an 'industry' under Industrial Disputes Act.

Union of India v. Shree Gajanan Maharaj Sansthan, 2002 LLR 711

Award on reference cannot be sustained in the absence of adjudication of jurisdictional factor viz., appellant is industry or not.

Director, Food and Supplies, Punjab vs. Gurmit Singh. LLJ II 2007 P. 813

Industrial Disputes Act.

Non-consideration of candidates for promotion will not attract section 33A of the Act.

C.P. Agrawal, etc. v. P.O., Labour Court & Anr., 1997 LLR 198

Retiral benefits cannot be claimed by a workman under section 33C(2) of the Act.

Union of India v. Gurbachan Singh & Anr., 1997 LLR 697

The Government can authorise anyone to file criminal complaint for unfair labour practice.

Raj Kumar Gupta v. Lt. Governor, Delhi & Ors., 1997 LLR 8

NMR workers will not be entitled to be regularised but will get compensation on closure.

Management of Dandakaranya Project, Loreput v. Workmen through Rehabilitation Employees Union & Anr., 1997 LLR 193

On closure of a project, the daily wagers will not be entitled to relief of reinstatement.

Executive Engineer (State of Karnataka) v. K. Somasetty & Otehrs, 1997 LLR 889

Limitation Act does not apply to proceedings under Industrial Disputes Act.

Ajaib Singh v. The Sirhind Co-operative Marketing-cum-Processing Service Society Ltd. & Ors., 1999 LLR 529 (SC): 1999(82) FLR 137

Closure of conciliation proceedings does not automatically amount to its termination.

Lokmat Newspapers Pvt. Ltd. v. Shankaraprasad, 1999 LLR 849 (SC): 1999(3) LLN 538

Compensation in lieu of reinstatement will be appropriate relief.

Workmen of Hindustan Lever Ltd. v. Hindustan Lever Ltd. & Ors., 1999 LLR 209 (SC): 1999 (81) FLR 460

The Government is justified in granting permission of closure of an industrial establishment as owned by the State.

Dayakar Reddy v. M.D. Allwyn Auto Ltd. & Ors., 2000 LLR 802

Refusal by Government to refer a dispute on the ground that the employee is not a 'workman' will be justified.

Secretary, Indian Tea Association v. Ajit Kumar Barat, 2000 LLR 337

Rejection of reference that the employee is not a 'workman' will not be interfered.

Secretary, Indian Tea Association v. Ajit Kumar Barat and Ors., 2000 LLR 506

Rejection of an industrial dispute by Industrial Tribunal pertaining an employee discharging mainly managerial and supervisory functions should not have been entertained by the High Court.

Birla Corporation Ltd. v. Rajeshwar Mahato, 2001 LLR (Sum) 639

Reference of dispute for adjudication will be quashed when the respondent's fraud in seeking employment was detected before his joining.

Bangaigaon Refinery & Petrochemicals Ltd. v. Samijuddin Ahmed, 2001 LLR 1168

High Court can interfere in an order for reference of a dispute when relevant factors are not considered.

Shri Moolchand Kharati Ram Hospital K. Union v. Labour Commissioner and Co., 2001 LLR 1185

An employee raising dispute after 13 years about his termination will not be tenable.

Management of M/s. Indian Iron and Steel Co. Ltd. v. Prahlad Singh, 2001 LLR 157

An award will be quashed if a dispute is decided on affidavits and without evidence.

Bank of India v. Secretary, Bank of India Staff Union, 2001 LLR 545

Workmen's dispute can be referred for adjudication even after long delay.

Sapan Kumar Pandit v. U.P. State Electricity Board, 2001 LLR 900

During pendency of proceeding seeking permission for dismissal of a workman, suspension allowance will be payable.

Ram Lakhan v. Presiding Officer and Ors., 2001 LLR 344

Permission for closure of an establishment will be deemed to have been granted when no reply is received within 60 days from the Government.

Union of India & Anr. v. Shantilal Valand, 2001 LLR 996

On Transfer of management the workers will be entitled to benefits as available to the employees of the transferee.

Managing Director, Andhra Pradesh State Road Transport Corporation v. The Presiding Officer, Industrial Tribunal, Ramkote, Hyderabad and Ors., 2001 LLR 451

A complaint for unfair labour practice will lie only when the complainant is a 'workman'.

Vividh Kamgar Sabha v. Kalyani Steels Ltd., 2001 LLR 187

Labour Court cannot exercise its discretion to alter the punishment when the workman has lost the confidence as reposed by the employer.

Uttar Pradesh State Road Transport Corporation v. Mohan Lal Gupta and Ors., 2001 LLR 1154

High Court should not interfere in the punishment unless it is shocking to conscience.

The Regional Manager & Disciplinary Authority, SBI, Hyderabad and Another v. S. Mohammed Gaffar, 2002 LLR 1181: 2002 LIC 2976: AIR 2002 (SC) 3037: 2002 (101) FJR 407: 2002 (4) LLN 22

Prior permission by the Government for the closure of an industrial establishment is must.

Orissa Textile & Steel Ltd. etc. etc. v. State of Orissa & Ors. etc. etc., 2002 LLR 225: 2002 LIC 570: AIR 2002 (SC) 708: 2002 (92) FLR 648: 2002(I LLJ 858: 2002-II LLN 853

When there is no adjudication of the matter on merits, it can be referred again.

Virendra Bhandari v. Rajasthan State Road Transport Corporation & Others, 2002 LLR 1085

Appropriate Government can not decide that an employee is not a 'workman'.

Sharad Kumar v. Government of NCT of Delhi & Ors., 2002 LLR 545: 2002 LIC 1464: AIR 2002(SC) 1724:2002 (97) DLT 326:2002 (100) FJR 852

Industrial disputes can be raised even after nine years.

Asstt. Executive Engg. v. Shivalinga, 2002 LLR 327

Determination of 'employee-employee' relationship will not be beyond the scope of reference.

Indian Farmers Fertilizer Co-operative Ltd. v. Industrial Tribunal-1, Allahabad and Others, 2002 LLR 449: 2002 LIC 1091: AIR 2002 (SC) 1318: 2002 (101) FJR 1: 2002 (93) FLR 290: 2002-II LLN 368

Courts should interfere in the administrative decisions of the employer in imposing punishment only when the punishment is illogical or suffers from procedural impropriety or is shocking.

United Commercial Bank and Ors. v. P.c. Kakkar, 2003 LLR 436: 2003-I LLN 825

Mere statement by the court while modifying the punishment of dismissal as imposed that it is shocking disproportionate will not be sufficient hence liable to be set aside.

United Commercial Bank and Ors. v. P.c. Kakkar, 2003 LLR 436: 2003-I LLN 825

Rejection of earlier approval application due to non-payment of one month's wages will become final if not challenged.

Indian Telephone Industries Ltd. & Anr. v. Prabhakar H. Manjare & Anr., 2003 LLR 68

In determining the relationship of employer and employee 'control' is one of the important tests but is not to be taken as sole test.

Ram Singh & Ors. v. Union Territory, Chandigarh & Ors., 2004 LLR 47: 2003 (99) FLR 1064

For determination of concept of employment the essential ingredients are:

- (i) Employer- one who works for another for hire; and**
- (ii) Employee-one who works for another for hire; and**
- (iii) Contract of employment-the contract of service between the employer and the employee whereunder the employee agrees to serve the employer subject to his control and supervision.**

Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu and Ors., 2004 LLR 351

While exercising its power under section 11A of the Industrial Disputes Act to give appropriate relief in the case of dismissal or discharge of a workman, the Labour Court/Industrial Tribunal can grant compensation in lieu of reinstatement of the workman.

Engineering Laghu Udyod Employees' Union v. Judge, Labour Court and Industrial Tribunal and Another, 2004 LLR 331.

Merely because some persons had been more or less continuously working in a particular premises, would not be construed that the relationship of

employer-employee has come into existence since other circumstances would be relevant factors.

Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu and Ors., 2004 LLR 351

The burden of proof for existence of relationship of employer and employee lies upon the person who sets of a plea of its existence.

Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu and Ors., 2004 LLR 351

Workman has to prove that he has worked continuously for 240 day's in a year.

M.P. Electricity Board vs Hariram etc. 2005 LLR 1, 2005 LLR 446, 2005 LLR 737, 2005 LLR 1222

The number of days of work put in different units of same employer could not be taken as "continuous employment".

D.G.M., Oil & Natural Gas Corpn. Ltd. & Anr. vs Ilias Abdulrehman. 2005 LLR 235

Having no limitation period in I.D. Act, does not mean that any stale claim must be entertained.

Haryana State Coop. Land Development Bank Vs. Neelam. 2005 LLR 483

Civil Courts have no jurisdiction to entertain Labour Disputes. *Rajasthan State Road Transport Corporation & Ors. Vs. Zakir Hussain, 2005 LLR 1044*

To seek relief under sec. 33C(2) of I.D. act, workman has to get his complaint adjudicated first under sec. 33(A) of the Act.

State of U.P. & Anr. vs Brijpal Singh. 2005 LLR 119

Consumer co-op. wholesale stores will not be a industrial establishment, hence chapter IV (B) of ID act not attracted.

Rajinder Singh Chauhan & Ors. Vs. State of Haryana and Ors. 2006 LLR 1

Apart for examining himself workman has to adduce other documentary evidence to prove his 240 days working to get benefit of Sec. 25(F) of I.D. Act.

Surendranagar District Panchayat and Anr. vs. Jethabhai Pitamberbhai. 2006 LLR 250.

In the absence of back wages order by court, same can not be granted separately under Sec. 33 C(2) of I.D. Act.

A.P.S.R.T.C. & Anr. vs B.S. David Paul. 2006 LLR 319

Claim of overtime is not tenable under sec. 33C(2) of I.D. Act.

Union of India and Anr. vs Kankuben (Dead) by LRs. and Ors. etc. 2006 LLR 494

2/3 days break after 89 days of employment and again reemploying would be unfair labour practice and such termination would amount to retrenchment if complete 240 days in a year.

Haryana State Electronics Dev. Corpn. vs. Mamnl. 2006 LLR 667

The purpose of Sec. 25FF of I.D. Act. is to establish continuity of service and secure benefits in case of transfer of undertaking from one to another employer.

Management, Mettur Beardsell Ltd. vs. Workmen of Mettur beardsell Ltd. and another. 2006 LLR 868

Burden of proof of 240 days working lies on workmen and with cogent evidence too. Mere affidavit and self serving statement will not suffice.

Chief Engineer, Ranjit Sagar Dam & Anr. vs. Sham Lal. 2006 LLR 881

Delay in raising dispute is to be justified by workman.

U.P. State Road Transport Corporation vs. Babu Ram. 2006 LLR 896

Benefits which could be enforced U/S 33C(2) of I.D. Act was a pre-existing benefit or one flowing from pre-existing right.

U.P. State Road Transport Corporation vs. Sh. Birendra Bhandari. 2006 LLR 1219

In case casual workman works in different deptts. of one employer, concept of continuous service would not apply.

Union of India and others vs. Jummasha Diwan. 2006 FLR 895

If Project comes to close, compliance of Sec. 25-N of I.D. Act need not to be complied.

Union of India & Ors vs. Jummasha Diwan. 2007 LLR 6

Without completing 240 days compliance of Sec. 25G and H not required.

Jaipur Development Authority vs. Ram Sahai & Anr. 2007 LLR 92

Gainful employment include self employment or earning from Agriculture also.

North East Karnataka Road Transport Corporation vs. M. Bagangouda. 2007 LLR 340

Engagement of meter reader under agreement and payment based on per meter reading, will not be a regular employment and hence disengagement will not attract retrenchment.

Punjab State Electricity Board & Anr. vs. Sudesh Kumar Puri. 2007 LLR 414

Labour Court and Industrial Laws are not applicable where complete machinery has been provided under the provisions of the Cooperative Societies Act.

Ghaziabad Zila Sahakari Bank Ltd. vs. Addl. Labour Commissioner & Ors. 2007 LLR 447

No relief when dispute raised after 18 years.

Krishi Utpadan Mandi Samiti vs. Pahal Singh. 2007 LLR 579

Appropriate Government for appellant Bank, which is a Multi State Co-operative Bank, is the State Government and not Central Government.

Bharat Co-op. Bank (Mumbai) Ltd. vs. Co-operative Bank Employees Union. 2007 (2) LLN 160

Exclusion of word "preceding" from S.2(g) of U.P. Act makes all the difference so far as this case is concerned.

Sriram Industrial Enterprises Ltd. vs. Mahak Singh & Ors. 2007 (2) LLN 144

Since the agreement stipulated that the Board has no obligation towards the employees of the previous owner of the undertaking will not be liable for providing any continuous employment.

Ram Pravesh Singh and others vs. State of Bihar and others. 2007 LLR 667

Courts have to record reasons for reducing the punishment awarded by Management to employee.

U.P.S.R.T.C. vs. Ram Kishan Arora. 2007 LLR 755

This decision explains difference in the interpretation of continuous service' under U.P. Industrial Disputes Act and Central Act.

Shriram Industrial Enterprises Ltd. v. Mahak Singh. CLR II 2007 P. 744.

Cause of action, a part of cause of action arose within the territory of State of W.B. and therefore State of West Bengal was appropriate Government.

Bikash Bhusan Ghosh vs. M/s. Novaratis India Ltd. & Ors. FLR (113) 2007 P. 1183

A dispute between a Co-operative Society and its employees has to be referred to the Registrar of Co-operative Societies since the civil courts or the labour courts/tribunals have no jurisdiction to entertain the proceedings.

Dharappa vs. Bijapur Co-op. Milk Producers Societies Union Ltd. 2007 LLR 1001

Closure does not mean that whole establishment is closed. Only a part, when closed, come under the purview of closure.

District Red Cross Society vs. Babita Arora & Ors. 2007 LLR 1125

Reference of dispute after 8 years would not be maintainable.

State of Maharashtra vs. Dattatraya Digamber Birajdar. 2007 LLR 1132

Failure of employer to seek approval for dismissal during pendency of Industrial Dispute would render the dismissal illegal.

United Bank of India vs. Sidhartha Chakraborty. 2007 LLR 1134

Workmen do not get right of regularisation even if they complete 240 days of work.

Hindustan Aeronautics Ltd. vs. Dan Bahadur Singh & Ors. 2007 LLR 1229

Delayed reference can only be challenged by employer in writ only. Tribunal has no power to decide.

Karan Singh vs. Executive Engineer, Haryana State Marketing Board. 2007 LLR 1233

MISCONDUCT

Even tried to molest amounts to molest a female employee when the behaviour of the employee did not cease to be outrageous.

Apparel Export Promotion Council v. A.K. Chopra, 1999 LLR 169

Gross negligence on the part of Branch Manager of the bank will amount to major misconduct.

State Bank of India and Others v. T.J. Paul, 1999 LLR 786(SC); 1999(82) FLR 497

No leniency can be shown to a bank employee who has entered three increments unauthorisedly for himself.

S.B.I., Hyderabad and Another v. S. Mohammed Gaffar, 2002 LLR 1181: 2002 LIC 2976: AIR 2002 (SC) 3037: 2002 (101) FJR 407: 2002(95) FLR 3

It is for the Disciplinary Authority and not court to decide as to which punishment be imposed.

Karnataka Bank Ltd. vs. A.L. Mohan Rao. 2006 LLR 252.

Act of misappropriation of funds is sufficient for the employer to lose confidence in employee.

Chairman-cum-M.D., T.N.C.S. Corpn. Ltd. vs K Meerabal. 2006 LLR 268

For negligence, department proceedings can be initiated but recovery of money would not be legal.

Punjab State civil suppliers corp. Ltd. vs. Sikandar Singh. 2006 LLR 445

High Court can interfere with punishment if disproportionate to misconduct.

Management, Coimbatore District Central Cooperative Bank vs. Secretary, Coimbatore District Central Co-operative Bank Employees' Association and Another. 2007 LLR 1000

MINIMUM WAGES

The employee not covered under Minimum Wages Act will not make claim for overtime under the said Act.

Municipal Council, Hatta v. Bhagat Singh & Ors., 1998 LLR 298

An establishment will be excluded from the applicability of Minimum Wages Act when the wages are more than the prescribed rates.

Airfreight Ltd. v. State of Karnataka & Others, 1999 LLR 1008 (SC): 1999(83) FLR 126

Minimum wages must be paid to daily wagers engaged for maintaining the agricultural fields.

Mahatma Phule Agricultural University and Ors. v. Nasik Zilla Sheth Kamgar Union and Ors., 2001 LLR 904

In the absence of specific scheduled employment in M.W. notification, security guards in Kerla are not entitled to minimum wages.

Lingegowd Detective & Security Chamber Pvt. Limited vs. Mysore Kirioskar Limited & Ors. 2006 LLR 729

PROBATIONER

In case when the employee was absent from duty from the date much prior to the expiry of the maximum period probation and remained absent even thereafter a long time rule of deemed confirmation will not be applicable.

Chief General Manager, State Bank of India & Anr. v. Bijoy Kumar Mishra, 1997 (8) SC 388: 1998 LLR 27

The services of a probationer can be terminated even by an innocuous order without holding an enquiry.

Life Insurance Corporation of India and Anr. v. Raghavendra Seshagiri Rao Kulkarni, 1998 LLR 284

Termination of a probationer without holding of an enquiry will not be invalid.

Oswal Pressure Die Casting Industry, Faridabad v. Presiding Officer & Anr., 1998 LLR 341

Termination of a probationer on the ground of three letters alleging misconduct will be quashed.

Dipti Prakash Banerjee v. S.N. Bose National Centre for Basic Science Calcutta & Ors., 1999 LLR 477 (SC): 1999-I CLR 782

Termination of a probationer during probation period will neither be punishment nor cast a stigma.

Ganganagar Zila Dugdh Utpadak Sahkari Sangh Ltd. & Another v. Priyanka Joshi & Another, 1999 LLR 957 (SC): 1999(3) LLN 531

Probationer cannot be terminated arbitrarily.

V.P. Ahuja V. State of Punjab & Ors., 2000 LLR 473

Termination of a promotee probationer after expiry of the probation period without disciplinary proceedings will be illegal.

Karnataka State Road Transport Corporation & Anr. v. S. Manjunath ect., 2000 LLR 863

An employee on probation can be terminated summarily.

Krishnadevaraya Education Trust v. L.A. Balakrishna, 2001 LLR 260

Termination of a probationer for unsatisfactory work will not be stigmatic.

Pawanendra Narayan Verma v. Sanjay Gandhi Post Graduate Institute of Medical Sciences, Lucknow & Anr., 2002 LLR 113

Termination of a probationer will not be stigmatic even when certain drawbacks are referred in the order.

Shailaja Shivajirao Patil v. President Hony. Khasdar UGS Santha & Others, 2002 LLR 497

Termination of a probationer will not be stigmatic when his work was found unsatisfactory and was warned also.

Mathew P. Thomas v. Kerala State Civil Supply Corporation Ltd. and Ors., 2003 LLR 349: 2003(96) FLR 1166

Merely the show cause notice levying certain allegations against the probationer but the termination letter not being based upon those allegations, it will not be stigmatic.

Mathew P. Thomas v. Kerala State Civil Supply Corporation Ltd. and Ors., 2003 LLR 349: 2003 (96) FLR 1166

Probationer has no right to continue in the post.

Management of Kalpatru Vidya Samasthe (R) and Anr. vs S.B. Gupta and Anr. 2005 LLR 1083

Termination of probationer even by stigmatic order will not be illegal.

Abhijit Gupta vs. S.N.B. National Center, Basic Science & Ors. 2006 LLR 545

Probationer or Ad-hoc appointee has no right to continue on the post.

Vidya Vardhaka Sangha and another vs. Y.D. Deshpande and others. 2006 LLR 1233

Discharge simplicitor is valid for inefficient probationer.

(Municipal Committee, Sirsa vs Munshi Ram. 2005 LLR 317)

RESIGNATION

A college Principal cannot continue to serve after acceptance of her resignation.

Committee of Management, Dayanand Arya Kanya Degree College Moradabad and Ors. v. Director, Higher Education, Allahabad and Ors., 1998 LLR 933

Non-communication of acceptance does not make resignation inoperative provided there is in fact an acceptance before the withdrawal.

North Zone Cultural & Anr., v. Vedpathi Dinesh Kumar, 2003 LLR 583: 2002(97) FLR 808

A resignation must be unconditional and with a clear intention to relinquish a job.

Prabha Atri (Dr.) v. State of Uttar Pradesh & Ors., 2003 LLR 230: 2002-I LLN 762

Merely that the employee has attended duty and marked attendance will not nullify the acceptance of resignation on the date of resignation as tendered with immediate effect.

North Zone Cultural centre v. Vedpathi Dinesh Kumar, 2003 LLR 583: 2003(97) FLR 808

Employee can withdraw his resignation before valid acceptance by employer.

Srikantha S.M. vs M/s Bharat Earth Movers Ltd. 2005 LLR 1185

Even after acceptance of resignation, but before date of relieving, employee can withdraw the resignation.

Srikanth S.M. vs M/s. Bharath Earth Movers Ltd. 2006 LLR 438

Involved in the charge of misbehaving with the girl student, resignation by lecturer and acceptance by management, can not be said to be done under force.

Secy., Technical Education U.P. & Ors. vs. Lalit Mohan Upadhyay & Anr. 2007 LLR 662

REINSTATEMENT

Reinstatement of an employee who challenged dismissal after five years will not be justified.

Life Insurance Corporation of India & Ors. v. Jyotish Chandra Biswas, 2000 LLR 1278

Reinstatement without back wages will be appropriate relief when the workmen are negligent.

Kanhaiyalal Agrawal v. The Facotry Manager, Gwalior Sugar Co. Ltd., 2001 LLR 1073

Reinstatement of an employee for misappropriation or loss of confidence will be set aside.

Uttar Pradesh State Road Transport Corporation v. Mohan Lal Gupta and Ors., 2001 LLR 1154

Denial of reinstatement and wages will be unjustified on illegal termination.

Vikramaditya Pandey v. Industrial Tribunal, 2001 LLR 193

When an industrial Tribunal is dicided after 25 years, compensation instead of reinstatement will be appropriate relief.

Sain Steel Products v. Naipal Singh and Ors., 2001 LLR 566

Compensation in lieu of reinstatement will be appropriate relief to a Security Guard whose retention involved confidence of the employee and only three years of his service were left.

Om Prakash (Dead) by LRs v. Presiding Officer, Labour Court, Rohatak & Anr., 2001 LLR 1116

Reinstatement with 50% back-wages will be appropriate when dismissal of a workman for assaulting his senior is not proved.

Hindustan Motors Ltd. v. Tapan Kumar Bhattacharya & Anr., 2002 LLR 925: 2002 LIC 2640: AIR 2002 (SC) 2676: 2002 (101) FJR 2002: 2002 (94) FLR 741

Granting notional increments to a workman on his reinstatement will amount to premium on the misconduct.

A.P.S.R.T.C. and Anr. v. S. Narsagoud, 2003 LLR 225

Reinstatement of workmen will be appropriate relief to the casual workers who were employed for more than 240 days by the Telecom Department for digging, laying cables, erecting poles and connected work in belgaum in 1985-87.

S.M. Milajkar & Ors. v. Telecom, District Manager, Marnataka, 2003 LLR 470: 2003 (97) FLR 608

Reinstatement with 25% back-wages of a workman as awarded by Labour Court and upheld by the High Court will be converted into payment of compensation when the Management has been suffering losses and the reinstatement of the workman after a long period would neither be just nor equitable besides that it will add to excessive manpower than the requirement.

Haryana Tourism Corporation Ltd. v. Fakir Chand etc. etc., 2003 1121: 2003 (99) FLR 821

For Courts, not always mandatory to order reinstatement.

Employers, Management of Central P & D Inst. Ltd. vs Union of India & Anr. 2005 LLR 132

In view of bad blood between employer and workman, compensation would be right in lieu of reinstatement.

K.C. Sharma vs Delhi Stock Exchange & Ors. 2005 LLR 417

Reinstatement with back wages wrong in the absence of proof of 240 days working by workman. Surendranagar District Panchayat and another vs Jethabhai Pitamberbhai. 2006 LLR 175

Daily wager neither engaged under service rules nor having any appointment letter is not entitled in reinstatement.

State of M.P. & Ors vs Arjunlal Rajek 2006 LLR 381

Reinstatement against the terms of reference can not be sustained.

State Bank of Bikaner and Jaipur vs. Om Prakash Sharma. 2006 LLR 747

When a Deptt. is closed and issue was raised after 8 years, reinstatement not justified in case of daily wages.

Assistant Engineer, C.A.D. Kota vs. Dhan Kunwar. 2006 LLR 885

Working 227 days in four years of service will not attract retrenchment compensation hence no reinstatement.

Rajasthan Tourism Development corporation Ltd. & Anr. vs. Intejam Ali Zafri. 2006 LLR 942

Reinstatement not justified to daily wages earner, moreover when he did not completed 240 days.

H.U.D.A. vs. Jagmal Singh. 2006 LLR 947

No reinstatement to daily wager.

Manager (Now Regional Director) R.B.I. vs. Gopinath Sharma & Anr. 2006 LLR 958

Reinstatement with back wages substituted with lumpsum compensation, where dispute raised after 12 years.

U.P. State Road Transport Corporation vs. Man Singh. 2006 LLR 1151

Reinstatement not justified when dispute raised after 8 years.

Assistant Engineer, C.A.D. Kota vs. Dhan Kunwar. 2006 LLR 1220

When a project scheme under which workman was appointed, came to an end, he is not entitled to reinstatement.

State of Rajasthan vs. Sarjeet Singh and Another. 2006 FLR 908

Leniency of labour court is reinstating workman dismissal for assault, would be unwarranted and encourage indiscipline.

M/s Tata Engineering & Locomotive Company Ltd. vs. N.K. Singh. 2007 LLR 109

It will be a futile exercise of judicial leview to direct ban to reinstatement officer, who was lost condidence.

Suresh Pathrella vs. Oriental Bank of Commerce. 2007 LLR 144

Person for 88 days can not be granted permanent status and reinstated in job. Doing so would not be only illegal but also a case of misplaced sympathy.

Regional Manager, State Bank of India vs. Mahatma Mishra. 2007 CLR I 594

Where termination challenged after nine years, compensation would be proper and not reinstatement.

State of Punjab & Ors. vs. Des Bandhu. 2007 LLR 449

Reinstatement with full back wages not to be granted automatically.

Haryana Urban Development Authority vs. Om Pal. 2007 LLR 582

When there is long passage of time and company suffered losses, compensation in lieu of reinstatement would be proper.

Fazilka Coop. Sugar Mills vs. Jatinder Kumar Gupta & Anr. 2007 LLR 673

Automatic reinstatement on illegal termination is no more a good law. Factors whether worker was casual, temporary or permanent are also to be considered.

Madhya Pradesh Administration vs. Tribhuban. 2007 LLR 785

Reinstatement not tenable when workman statement of employment is contradictory.

Punjab State Electricity Board & Ors. vs. Inderjit Singh. 2007 LLR 850

At one point, relief of reinstatement was automatic in case of breach but now there is a change in the trend in recent decisions.

Madhya Pradesh Administration vs. Tribhuvan. CLR II 2007 P. 694

Reinstatement to a Temp. clerk, who raised dispute after 18 years - illegal. Court should take in to consideration the relevant factors before award.

Krishi Utpadan Mandi Samiti, Manglore vs. Pahal Singh. 2007 LLR 1121

For misconduct of assaulting / abusing Superior and strike, reinstatement will not be proper.

U.B. Gadhe & Ors. etc. etc. vs. G.M., Gujarat Ambuja Cement Pvt. Ltd. 2007 LLR 1178

Employee can withdraw his resignation before valid acceptance by employer.
Srikantha S.M. vs M/s Bharat Earth Movers Ltd. 2005 LLR 1185

When charges are of grievous nature, sentiments and compassion have no role to play. *Syndicate Bank and Ors. vs Venketesh Gurero Kurati. 2006 LLR 321*

Reinstatement of workman of seasonal establishment is improper. *Ganga Kisan Sahkari Chini Mills Ltd. vs. Jaivir Singh. 2007 LLR 1260*

Reinstatement of an employee absenting for 582 days in 628 days is to be set aside.

Syndicate Bank v. The General Secretary, Syndicate Bank Staff Association & Anr., 2000 LLR 689

Reinstatement of an employee will not be justified when there are specific findings about charge of misappropriation.

Janatha Bazar (South Kanara Central Co-operative Wholesale Stores Ltd. etc. v. The Secretary, Sahakari Noukarara Sangh etc., 2000 LLR 1271

Reinstatement of a bus conductor guilty of habitual misappropriation will be set aside.

North West Road Transport Corporation v. Narayana Sidram Zingade and Anr., 2001 LLR 1237

Once an act of misappropriation of either small or large amount is proved against an employee, his reinstatement will be uncalled for.

Janatha Bazar (Sough Kanara Central Co-operative Wholesale Stores Ltd. etc. v. The Secretary, Sahakari Noukarara Sangha, 2000 LLR 1271

No reinstatement when loss of confidence proved.

Bharat Heavy Electricals Ltd. vs M. Chandrasekhar Reddy and Ors. 2005 LLR 258

Termination of a trainee having put in more than 240 days' service will not be retrenchment.

Kalyani Sharp India Ltd. v. Labour Court No. 1, Gwalior and Anr., 2001 LLR 812

Termination without retrenchment compensation for each year of service will be illegal.

Deep Chandra v. State of Uttar Pradesh and Anr., 2001 LLR 312

Reinstatement of an employee will be unjustified when the employer loses confidence in him.

North West Road Transport Corporation v. Narayana Sidram Zingade and Anr., 2001 LLR 1237

In the absence of cogent evidence of the termination of so-called trainees having worked for one and a half years, that too when there was no permanent employee and the management witness categorically stated that these workers were engaged in production of goods, the trainees will be treated as 'workmen', and entitled to reinstatement.

Trambak Rubber Industries Ltd. v. Nashik Workers & Ors., 2003 LLR 820: 2003-III LLN 834

RETRENCHMENT

Termination of the workers in a seasonal establishment will not amount to 'retrenchment'.

Managing Director, Haryana Seeds Development Corpn. Ltd. v. The Presiding Officer & Anr., 1997 LLR 806

While retrenching a workman, it is mandatory requirement to pay one month's wages in lieu of notice when a workman is asked to go and could not be asked to collect his dues afterwards.

Somasundaram v. Liyakat Ali & Anr., 1998 II LLJ 419

Even a daily rated workman discharged from service without complying section 25-F of the I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages.

M.C.D. v. Praveen Kumar Jain & Ors., 1998 II LLJ 674

The appropriate remedy to challenge permission for retrenchment is reference for adjudication before Industrial Tribunal and not by filing of a writ petition.

Narkesari Prakashan Karmachari Sangh v. Narkesari Prakashan Ltd. and Any., 1999 LLR 321 (SC): 1999 (81) FLR 149

A notice of change must precede to the introduction of rationalization of an industry resulting into retrenchment of workmen.

Lokmat Newspapers Pvt. Ltd. v. Shankaraprasad, 1999 LLR 859 (SC) 1999(3) LLN 538

Permission for retrenchment will be imperative for employees engaged in Railway Project.

Lal Mohammad & Ors. v. Indian Railway Construction Co. Ltd. & Ors., 1999 LLR 100

Principle of 'last come first go' will apply even in the case of daily wager.

Samishta Dube v. City Board, Etawah & Another, 1999 LLR 460 (SC): 1999-1 CLR 854

Encashment of cheque by a workman containing amount of retrenchment compensation will not be a waiver to challenge the validity of retrenchment.

Nar Singh Pal v. Union of India & Ors., 2000 LLR 577

While examining validity of retrenchment, the Tribunal can decide the bonafides of closure.

J.K. Symthetics v. Rajasthan Trade Union Kendra & Ors., 2001 LLR 197

Merely asking a workman to collect his dues will not amount to compliance of section 25F of the Industrial Disputes Act pertaining to simultaneous payment of retrenchment compensation.

Sain Steel Products v. Naipal Singh and Ors., 2001 LLR 566

Section 25F of the Industrial Disputes Act, 1947 nowhere speaks of the retrenchment compensation being paid or tendered to the worker along with one month's notice, it is required to be made at the time of retrenchment.

Pramod Jha & Ors. v. State of Bihar & Ors., 2003 LLR 419

The casual workers were not project workers hence compliance of provisions of section 25F of the Industrial Disputes Act providing for payment of retrenchment compensation at the time of their termination was imperative.

S.M. Nilajkar & Ors. v. Telecom, Distric Manager, Marnataka, 2003 LLR 470: 2003-II LLJ

Concept of 26 working days while paying retrenchment compensation is not applicable.

Guru Jambeshwar University, Hisar vs. Dharam Pal. 2007 (112) FLR 880

Termination of the workmen having not worked for 240 days in the preceding year but having worked for the earlier years will amount to illegal retrenchment and for non-payment of retrenchment compensation, they will be entitled to reinstatement since the U.P. Industrial Disputes Act does not provide 'preceding' 12 months.

U.P. Drugs & Pharmaceuticals Co. Ltd. v. Ramanuj Yadav & Ors., 2003 LLR 1097: 2003 (99) FLR 331: 2003 (3) LLJ 1064

Non-payment of retrenchment compensation to a workman who has not worked for 240 days will not render his termination illegal.

Essen Deinki v. Rajiv Kumar, 2003 LLR 113

STRIKE / LOCK-OUT

Declaration of lock-out will not be illegal when the employees resort to illegal strike.

H.M.T. Ltd., etc. v. H.M.T. Head Officer Employees' Assn. & Ors., etc., 1997 LLR 758

No wages to employees when they resort to illegal strike.

H.M.T. Ltd. etc. v. H.M.T. Head Office Employees' Association & Ors., etc., 1997 LLR 758

A sympathy strike resorted to by the workers will be illegal.

Raja Ram Maize Products etc. etc. v. Industrial Court of M.P. & Ors., 2001 LLR 503

STANDING ORDERS

An employee cannot be thrown out of service by simple notice even if Standing Orders so stipulate.

Uptron India Ltd. v. Shammi Bhan & Anr., 1998 LLR 385: 1998 (79) FLR 233

There will be no illegality in Standing Orders permitting representation of a delinquent employee by fellow workman.

Bharat Petroleum Corpn. Ltd. v. Maharashtra General Kamgar Union & Ors., 1999 LLR 180

SUSPENSION

Respondent working as clerk-cum-typist in the bank. Involved in a criminal case instituted by C.B.I.-Bank placed him under suspension. Suspension challenged. Held that the very fact that the investigation was conducted by the C.B.I. which resulted in the filing of a charge-sheet alleging various offences having been committed by the respondent, was sufficient for the bank to conclude that pending prosecution, the respondent should be suspended. The High Court was not right in quashing the suspension order.

Allahabad Bank of Anr. v. Deepak Kumar Bhola, 1997 LLR 608

Suspension of a bank employee during pendency of disciplinary proceedings will not be illegal.

State Bank of India & Ors. v. Harbans Lal, 2000 LLR 801

Interference by High Court in suspension of an employee will not be justified.

New India Insurance Co. Ltd. V. S.M.I. Kazim & Ors., 2001 LLR 825

When the Tribunal has held that there was no valid and proper enquiry against a teacher and in a writ petition the single Judge remitted the matter back to an Enquiry Committee by appointing a District Judge as an Enquiry Officer, the teacher shall be deemed to be under suspension pending enquiry and he will be entitled to suspension allowance.

Sree Ujjini, J.S.V.V. Sangha v. R.H.M. Channabasava Swamy, 2003 LLR 1016: 2003 (3) LLN 837

Non-payment of suspension period during pendency of the enquiry will not vitiate the proceedings when the delinquent neither asked the concerned authorities nor did plead before the Court besides that he failed to establish that any prejudice was caused or that he was in any way incapacitated for participating in the proceedings.

Indra Bhanu Gaur v. Committee, Management of M.M> Degree College and Ors., 2004 LLR 228

Non payment of suspension allowance can not automatically become a ground to vitiate enquiry, unless it is proved that it has caused prejudice to delinquent employee.

U.P. State Textile Corporation Ltd. vs P.C. Chaturvedi and Ord. 2005 LLR 1197

SETTLEMENT

A settlement arrived during conciliation proceedings would be binding upon two parties and also upon the workers joining thereafter.

P. Virudhachalam and Ors. v. The Management of Lotus Mills and Ors., 1998 LLR 240

Pay roll check off facility given to the union by the management under a settlement, cannot be withdrawn by the management during the settlement.

Management of K.S.R.T.C. v. K.S.R.T.C. Staff & workers' Federation & Anr., 1999 LLR 390(SC): 1999(81) FLR 797

Adjudication and not writ petition will be proper to determine the validity and fairness of a settlement.

Mayurakshi Cotton Mills & Ors. v. Panchra Mayurakshi Cotton Mills Employees' Union & Ors., 2000 LLR 455

A settlement with a recognised union during conciliation proceedings will be binding on all the workmen of the establishment.

National Engineering Industries Ltd. v. State of Rajasthan & Ors., 2000 LLR 228

A settlement can be arrived before the conciliation officer even on a holiday.

National Engineering Industries Ltd. v. State of Rajasthan & Ors., 2000 LLR 228

The object of a settlement is to ensure industrial peace.

National Textile Corporation (APKKM) Limited v. Sree Yellamma Cotton, Woolen and Silk Mills Staff Association, 2001 LLR 195

During operation of a settlement, no demand can be made by the workers.

National Textile Corporation (APKKM) Limited v. Sree Yellamma Cotton, Woolen and Silk Mills Staff Association, 2001 LLR 195

Workman receiving benefits under settlement can not challenge its validity.

State of Uttaranchal vs. Jagpal Singh Tyagi. 2006 LLR 254.

Barring retired employees to get benefit arising out of settlement under Sec. 12(3) would not be illegal.

Transmission Corpn., A.P. Ltd. & Ors. Vs. P. Ramachandra Rao & Anr. 2006 LLR 576

Grievance about non-implementation of crystalised terms of settlement cannot be said to be 'matter covered by the settlement' for purpose of strike.

Savita Chemicals (P) Ltd. v Dyes & Chemical Workers Union & Anr., 1999 LLR 188

Government employees can not go on strike since they have neither fundamental, statutory, moral or equitable justification to resort to strike.

T.K. Rangarajan v. Government of Tamil Nadu & Others, 2003 LLR 863: 2003 (98) FLR 367

The High Court has incorrectly applied the provisions of section 22 of the Industrial Disputes Act, 1947 in holding that no notice of strike was necessary on the part of the workmen/union whereas the legal consequences of not giving of such notice may be, it cannot be said in the circumstances, that the workers were admittedly on strike as a matter of fact.

Uttar Pradesh State Bridge Corporation Ltd. & Ors. v. Uttar Pradesh Rajya Setu Nigam & Ors., 2004 LLR 289

When after strike, majority of workers reported for duty after settlement, punishment of increment stoppage to those who refused to join duty, was justified and legal.

Mangement, Coimbatore District Central Co-operative Bank and Secretary, Coimbatore District Central Co-operative bank employees' association and another. 2007 (114) FLR 236

TERMINATION

Termination of an employee for unsatisfactory performance appointed temporarily will not be sustainable.

Rajasthan Adult Education Association & Anr. v. Kumari Ashoka Bhattacharya & Anr., 1998 LLR 156

Termination of an employee for making false claim of HRA will be justified.

Director General, Indian Council of Medical Research & Ors. v. Dr. Anil Kumar Ghosh & Anr., 1998 LLR 861

No-payment of retrenchment compensation even to a daily wager will render the termination illegal.

State of Uttar Pradesh and Anr. v. Rajendra Singh Butola and Anr., 2000 LLR 523

Termination of even a casual workman without enquiry will be illegal and as such entitled to reinstatement with back wages.

Nar Singh Pal v. Union of India & Ors., 2000 LLR 577

Termination of a Bank employee absenting for 190 days without holding an enquiry will not be violative of principles of natural justice.

Punjab and Sind Bank & Ors. v. Sakattar Singh, 2001 LLR 155

Termination of an employee after 15 years of service as stipulated in the Standing Orders will be legal.

Harmohinder Singh V. Kharga Canteen, Ambala Cantt, 2001 LLR 849

Loss of confidence must be pleaded and established while terminating the workman.

Kanhaiyalal Agarwal v. The Factory Manager, Gwalior Sugar Co. Ltd., 2001 LLR 1073

Unless a stigma is cast, the termination of either temporary employee or a probationer should not be interfered.

Andhra Pradesh State Federation of Co-operative Spinning Mills Ltd. and Anr. v. P.V. Swaminathan, 2001 LLR 560

Termination of probationary services of a teacher for giving false declaration about his involvement in criminal cases in attestation form for obtaining employment has been held to be valid.

Kendriya Vidyalaya Sangathan & Ors. v. Ram Ratan Yadav, 2003 LLR 433: 2003 (97) FLR 117:2003 (2) LLN 345: 2003 (2) LLJ 523

Termination of services of the workman will relate back to the date of original order of termination when the Labour Court gives its approval.

Engineering Laghu Udyog Employees' Union v. Judge, Labour Court and Industrial Tribunal and Another, 2004 LLR 331

Termination justified for hitting and injuring Superior Officer.

Madhya Pradesh Electricity Board vs Jagdish Chandra Sharma 2005 LLR 420, 2005 LLR 1085

Workman can get relief only when he proves that he has worked for 240 days in 12 months preceeding the date of his termination.

Surendranagar District Panchayat vs Dahyabhai Amarsingh. 2005 LLR 1222

Discharge for allegations against seniors justified. Ex-parte enquiry and tribunal order need not to be interfered.

State Bank of India vs K.C. Tharakan and Others. 2006 LLR 100

Termination of workers appointed on ad-hoc basis cannot be illegal. No reinstatement required.

Regional Manager, S.B.I. vs Rakesh Kumar Tewari. 2006 LLR 209

Unauthorised absence from the duty by conductor for 3 years justifies termination.

North Eastern Karnataka R.T. Corpn. Vs. Ashappa & Anr. 2006 LLR 744

Termination of ad-hoc appointee would be illegal, when re-appointed time and again by giving notional breaks of 1-2 days.

Haryana State Electronic Development Corporation Ltd. vs. Mamni. 2006 CLR II P. 1047

Civil Court has no jurisdiction to decide the validity of termination.

Rajasthan State Road Transport Corporation and ors. vs. Ramdhara Indoliya. 2006 LLR 1198

An employer can terminate the service of an employee for a misconduct in the absence of any statutory rules having provision for termination.

Punjab Water Supply Sewerage Board and Another vs. Ram Sajivan and Another. 2007 LLR 1001

If appointment secured on false certificate, termination legal.

A.G.M./Human Resource, BHEL vs. Suresh Ramkrishna Burde. 2007 LLR 1002

TRADE UNION

A trade union cannot seek a blanket injunction from the court that workers should not be relieved from their work.

T.N. Civil Supplies Corpn. Workers Union v. T.N. Civil Supplies Corporation Ltd., 2001 LLR 486

An unrecognised union can espouse the grievances of individual members for representation in enquiries etc. and not beyond that.

State Bank of India & Anr. v. All Orissa State Bank Officers Associations & Ors., 2002 LLR 696

Discussions and negotiations by the bank only with the recognised union will help in maintaining industrial peace.

State Bank of India & Anr. v. All Orissa State Bank Officers Associations & Ors., 2002 LLR 696: 2002 LIC 2153: 2002(4) Supreme 70

There is no common law right of a trade union to represent its members, whether for purposes of collective bargaining or individual grievance redressal of its members.

State Bank of India & Anr. v. All Orissa State Bank Officers Association & Anr., 2003 LLR 1016: 2003-III LLN 784

TRANSFER

Transfer of an employee in accordance with standing orders as certified under Industrial Employment (Standing Orders) Act, 1946 will not amount to change in service conditions under the Industrial Disputes Act.

Management of Cipla Ltd. v. Shri Jayakumar R. & Anr., 1998 LLR 63

Transfer of an employee by a non competent authority will be illegal hence reinstatement of the employee will be justified.

Rhone-Poulenc (India) Ltd. v. State of Uttar Pradesh and Ors., 2000 LLR 1287

Stalling transfer of a bank employee by High Court will not be tenable.

State Bank of India v. Anjayan Sanyal, 2001 LLR 548

Courts will not interfere in matters of transfer unless it is mala fide.

National Hydro-Electric Power Corporation Ltd. v. Shri Bhagwan And Anr., 2001 LLR 1222

Transfer of an employee is an incident of service conditions and no employee can have a right to remain at one place.

National Hydro-Electric Power Corporation Ltd. v. Shri Bhagwan and Anr., 2001 LLR 1222

Refusal to accept transfer order by an employee will not be justified since he can challenge his transfer after joining.

Management of Addisons Paints and Chemicals Ltd. v. Workmen, rep. by the Secretary (A.P. & C.) Assistants Association & Anr., 2001 LLR 190

A civil suit for enforcement of contract of personal service whereby an employee challenges his transfer should be thrown at the threshold by the court.

Pearlite Liners Pvt. Ltd. v. Manorama Sirsi, 2004 LLR 193

Transfer matter not to be interfered by High Court.

Dharambir Singh vs Union of India and Ors. 2005 LLR 539

Dismissal justified for avoiding transfer under the guise of falling sick.

Y. P. Sarabhai vs. Union Bank of India & Anr. 2006 LLR 769

Transfer can be challenged from the place where it was made from and that State Govt. can refer that dispute.

Bikash Bhushan Ghosh and Others vs. Novartis Ltd. & Another. LLR 903

Transfer of an employee on recommendation of MLA will not be interfered.

Mohd. Masood Ahmed vs. State of U.P. & Ors. 2007 LLR 1137

V.R.S.

Option for voluntary retirement by an employee during prescribed period cannot be refused.

Manjushree Pathak v. The Assam Industrial Development Corporation Ltd. & Ors., 2000 LLR 1141

Option for voluntary retirement can be withdrawn in the absence of contrary provision.

Shambhu Murari Sinha v. Project and Development India Ltd. and Another, 2002 LLR 605: AIR 2002 SC 1341: 2002(94) FLR 229: 2002(2) LLJ 430

Once a cut off date is fixed for the purpose of calculating the benefits under the Voluntary Retirement Scheme and thereafter an employee is continued in service and if that period happens to be three months or more, that itself shall be treated as notice period and the employee shall not be entitled for notice period pay again.

A.P.S.I.D.C. Ltd. and Anr., v. R. Varaprasad and Ors., 2003 LLR 707: 2003 (98) FLR 104

Once an employer accepts the Voluntary Retirement Scheme Application of an employee, the later cannot withdraw from the scheme even if he continues in service beyond the cut off date due to lack of funds to settle his dues.

Vice-Chairman and Managing Director, APSIDC Ltd. and Anr., v. R. Varaprasad and Ors., 2003 LLR 707

Voluntary Retirement Scheme is contractual in nature and the contractual right derived by the employees concerned, could be waived by accepting a part of the benefit and as such they cannot be permitted to approbate and reprobate nor can they be permitted to resile from thier earlier atand in opting for the Scheme.

Punjab National Bank v. Virendra Kumar Goel and Others, 2004 LLR 267: 2004 (100) FLR 631

The sentence, "accepted a part of benefit under the Scheme", would include the withdrawal of the benefit and utilisation thereof and as such by no stretch of imagination, unilateral deposit of a part of benefit under the scheme into the bank account, that too after withdrawal of the application, would construe

that they have accepted the part of the benefit under the Voluntary Retirement Scheme and as such the employees concerned having accepted the benefit accruing under the Scheme by withdrawing and utilisation thereof, are not permitted to approbate and reprobate.

Punjab National Bank v. Virendra Kumar Goel and Others, 2004 LLR 267: 2004 (100) FLR 631

After withdrawal of VRS payment from Bank A/c, employee's option of withdrawal from VRS not valid.

Bank of India and others vs Pale Ram Dhanra 2005 LLR. 97

Employee can withdraw the VRS option before acceptance Contrary to VRS terms & condition and such condition would not be valid.

Hindustan Copper Ltd. & Anr. vs. Banshi Lal is Ors. 2006 LLR 97

Withdrawal of VRS option by employee before acceptance will be justified.

Punjab and Sind Bank and others vs Mohinder Pal Singh and others. 2006 LLR 105

VRS optee is not workman under I.D. Act, hence not entitled to approach any forum or authority under I.D. Act.

CEAT Ltd. vs Anand Abasaheg Hawalder & Ors. 2006 LLR 335

VRS optee can not raise a claim for a Higher salary revised for employees with retrospective effect.

HEC Voluntary Retd. Employees Welfare Sociaty & Anr. vs. Heavy Engineering Corpoartion Ltd. & Ors. 2006 LLR 370

After receiving VRS benefit, employee can not withdraw his application on the plea that it was given under pressure.

Gyanendra sahay vs. M/s. Tata Iron & Steel Co. Ltd. 2006 LLR 954

Once an employee has opted for voluntary retirement, its withdrawal will not be allowed after its acceptance by the employer.

Tulip Star Hotels and Others vs. Union of Centaur-Tulip Employees and Others. 2007 LLR 1002

Employee can withdraw his V.R.S. option before acceptance by employer.

Food Corporation of India & Ors. vs. Ramesh Kumar. 2007 LLR 1123

WAGES

The controversy about quantum of 'wages' has been set at rest by the Supreme Court in holding that 'full wages last drawn' means the wages at the time of termination of service and not when the award was passed.

Dena Bank v. Kiritikar T. Patel, 1998 LLR 1

Directors of Company are not personally liable for Payment of wages.

P.C. Agarwal vs Payment of Wages Inspector, M.P. & Ors. 2005 LLR 1073

Salary Declined on ground of employer running business at loss is not sustainable.

Devendra Kumar Singh vs. Administrator, Bihar Co-operative Marketing Union Ltd. LLJ III 2006 P. 9.

Workmen Compensation Act.

Revised rates of workmen compensation will not apply if the accident occurred before the effective date.

Kerala State Electricity Board and Another v. Valsala K. & Ors., 1999 LLR 1186 (SC): 1999-II CLR 868

Insurer cannot be held liable for interest and penalty on late payment of compensation.

Kashibhai Rambhai Patel v. Shahabhai Somabhai Parmer & Ors., 2000 LLR 1103

Heart attack at workplace will not amount to injury arising out of and in the course of employment, when he was already suffering from such disease and no scope of stress was there in duties.

Jyoti Ademma vs. Plant Engineer, Nellore & Anr. 2006 LLR 890

Employer under W.C. Act is not only who employs another, but also the workers who were in his contract or temporary lent.

Zila Sahakari Kendra Bank Maryadit vs. Shahjadi Begum & Ors. 2007 LLR 102

For claiming compensation, an accident may lead to death but that an accident had taken place must be proved. Only because a death has taken place in course of employment will not amount to accident since death must arise out of accident.

Shakuntala Chandrakant Shreshti vs. Prabhakar Maruti Garvali & Anr. 2007 LLR 185

Claim for compensation was not bonafide in absence of documentary proof to establish contract of employment.

Gotumukkala Appala Narasimha Rahu & Ors. vs. National Insurance Company. Ltd. LLJ II 2007 P. 531

Alleged compromise on payment of compensation for serious injury should not have been endorsed by the High Court.

Roshan Deen v. Preeti Lal, 2002 LLR 71

WORKMAN

A doctor who has been paid on daily basis for the visits to the Dental Clinic of the Corporation will not be a 'workman' under the Act.

Ahmedabad Municipal Corpn. v. Virendra Kumar Jayantibhai Patel, 1997 (77) FLR 201

An apprentice having worked for a short period could not be considered a 'workman' under the Industrial Disputes Act, 1947.

Factory Manager, CIMMCO Wagon Factory etc v. Virendra Kumar Sharma & Anr., etc., 2000 LLR 1137

The workmen of a cooperative canteen run for staff of a bank with its funds will be employees of the bank.

Indian Oversease Bank v. I.O.B. Staff Canteen Workers Union & Anr., 2000 LLR 647

Canteen employees will not be deemed to be bank employees when running of canteen is not obligatory.

State Bank of India & Ors. v. State Bank of India Canteen Employees' Union (Bengal Circle) & Ors., 2000 LLR 675

Whether an employee is a workman or not should be decided at the threshold.

Hussan Mithu Mhasvadkar v. Bombay Iron & Steel Labour Board, 2001 LLR 1083

An inspector will also be a 'workman' under Industrial Disputes Act.

Hussan Mithu Mhasvadkar v. Bombay Iron & Steel Labour Board, 2001 LLR 1083

Deposit collectors engaged by banks against commission will be 'workmen' under the Industrial Disputes Act.

Indian Bank Association v. Workmen of Syndicate Bank & Ors., 2001 LLR(Sum) 412

An Artist engaged in production of drama or theatre will not be a 'workman'.

Bharat Bhawan Trust v. Bharat Bhawan Artists Association, 2001 LLR 1058

Designation of an employee will not determine as to whether he is a workman.

Hussan Mithu Mhasvadkar v. Bombay Iron & Steel Labour Board, 2001 LLR 1083

Nature of duties and not the designation will determine whether an employee is a 'workman' or not.

Sharad Kumar v. Government of NCT of Delhi & Ors., 2002 LLR 545: 2002 LIC 1464: AIR 2002(SC) 1724:2002 (97) DLT 326:2002 (100) FJR 852

It is the workman, who has to prove his employment with the employer. Surendranagar Distt.

Panchayat & Anr. vs. Gangaben Laljibahi & Ors. 2006 LLR 887

T.V. Service Engineers engaged on contract basis will not be workman under I.D. Act.

Electronics Corporation of India Ltd. vs. Electronics Corporation of India Service Engineer Union. LLR 1045

For Exclusion of an employee for being a workman under I.D. Act, It is necessary that some persons must be working under him.

Anand Regional Co-op. Oil Seedsgrowers Union Ltd. vs. Shailesh Kumar Harshadbhai Shah 2006 LLR 1052

It is for the workman to prove that he has worked for morethan 240 days in preceding one year.

Krishna Bhagya Jala Nigam Ltd. vs. Mohammed Rafi. 2006 LLR 1080

Employees engaged and continued for years together cannot be termed as temporary or casuals.

Mineral Exploration Corporation Employees' Union vs. Mineral Exploration Corporation Ltd. & Anr. 2006 III CLR 956

Legal Asst. Is not a workman under U.P.I.D. Act.

Muir Mills Unit of N.T.C. (U.P.) Ltd. vs. Swayam Prakash Srivastava and another. 2007 (112) FLR 865

Industrial Relations Executive is not a workman under I.D. Act. amendment in sec. 2(s) of the Act has to be read prospective and not retrospective.

C. Gupta v. Glaxo Smith Klin Pharmaceutical Limited. 2007 CLR 836, 2007 (114) FLR 585

MISCELLANEOUS

The Supreme Court in a Special Leave to appeal can correct the incorrect decision of the High Courts.

Western India Plywood Ltd. v. Shri P. Ashokan, 1997 LLR 1029

Employees retiring before the final decision of increase in the retirement age will not be entitled to the benefits.

J.&K. State Road Transport Corpn., Jammu & Anr. v. Im Prakash & Ors., 1998 LLR 883

Civil Court will not entertain a suit pertaining to termination of an employee.

Ashok Kumar Srivastav v. National Insurance Co. Ltd. & Ors., 1998 LLR 517

A contract of employment cannot be enforced by the Civil Court.

Ashok Kumar Srivastav v. National Insurance Co. Ltd. & Ors., 1998 LLR 517

Strike notice under section 24 of MRTU & PULP Act need to be in Form No. 1

Savita Chemicals (P) Ltd. v. Dyes & Chemicals Workers Union & Anr., 1999 LLR 188

Extreme step of strike by workers without availing remedy under section 28 of MRTU & PULP Act would not render the strike invalid unless it falls within the purview of section 25(1)(i) of the Act.

Bharat Petroleum Corpn. Ltd. v. Maharashtra General Kamgar Union & Ors., 1999 LLR 188

Simple discharge of a workman under MRTU & PULP Act also will amount to unfair labour practice.

Lokmat Newspapers Pvt. Ltd. v. Shankaraprasad, 1999 LLR 849 (SC): 1999(3) LLN 538

When the award of the Labour Court is capricious, the High Court must exercise its jurisdiction.

U.P. State Road Transport Corporation v. Subhash Chandra Sharma & Ors., 2000 LLR 461

High Court is empowered to modify the disproportionate punishment.

U.P. State Road Transport Corporation & Ors. v. Mahesh Kumar Mishra & Ors., 2000 LLR 459

High Court cannot grant permanent status to a daily wager indirectly which was not possible to do directly when there are no posts.

Mahatma Phule Agricultural University and Ors. v. Nasik Zilla Sheth Kamgar Union and Ors., 2001 LLR 904

A writ petition will not be maintainable against the Public Limited Company.

V.S.T. Industries Ltd. v. V.S.T. Industries Workers' Union, 2001 LLR 101

In second appeal High Court will not interfere with quantum of punishment.

Tripura Gramin Bank and Ors. v. Tarit Baran Roy and Anr., 2001 LLR 600

The writ jurisdiction of High Court will not be ousted even when alternate remedy is provided.

Shashi Gaur v. N.C.T. of Delhi & Ors., 2001 LLR 48.

Unless fundamental right is offended, no writ will lie against the Judgment of the Supreme Court.

Ajit Kumar Barat v. Secretary, Indian Tea Association, 2001 LLR 543

Revision of wage fixation will be from the date of award.

Regional Manager, Bank of Rajasthan Ltd. v. Regional Labour Commissioner (C), 2001 LLR 310

Civil Court can vitiate wrongful termination of an employee and a declaratory suit against statutory body will be maintainable.

Ram Sahn Rai v. Sachiv Samanaya Prabandhak & Anr., 2001 LLR 392

Termination by Appellate Authority and not by disciplinary Authority will be set aside since the employee loses his right to appeal.

Electronics Corporation of India v. G. Muralidhar, 2001 LLR 597

When two posts are different, demand for equal pay fixation or seniority will not be tenable.

Mysore Paper Mills Ltd. v. Workmen, Mysore Paper Mills Ltd. & Anr., 2001 LLR 1007

Participation by Managing Director in the Appellate Authority will be invalid when he has removed the appellant.

Amar Nath Chowdhury v. Braithwaite and Company Ltd. & Ors., 2002 LLR 337: AIR 2002 SC 678: 2002 (93) FLR 850

Principle of 'equal work, equal wages' will be subject to volume and duration of the work.

Food Corporation of India Workers Union v. Food Corporation of India, and Another, 2002 LLR 769: 2002 LIC 2002 (101) FJR 10: 2002-II LLJ 267: 2002-II LLN 365: AIR 2002 SC 1659

In a case of wrongful withholding of property of a company, where the erstwhile or former employee is himself not in occupation of the premises either on account of the fact that he is dead or he is living elsewhere, in such cases all those who have come in possession of the premises with the express or implied consent of the employee and have not vacated the premises would

be withholding the delivery of the property to the company and, therefore, they are liable to be prosecuted under section 630 of the Companies Act.

Lalita Jalan & Anr. v. Bombay Gas Co. Ltd. & Ors., 2003 LLR 561: 2003 (2) LLJ 829 (SC).

Declaration of the age of retirement from flying duties of Air hostesses at the age of 50 years with option to them to accept post for ground duties after 50 and upto the age of 58 years is not discriminated against them based on sex.

Air India Cabin Crew Association v. Yeshawinee Merchant & Ors., 2003 LLR 907: 2003 (98) FLR 1044: 2003 (3) LLJ 1

Where the conclusion reached by Industrial Court was perverse, the High Court would be justified to interfere in its writ jurisdiction.

Trambak Rubber Industries Ltd. v. Nashik Workers Union & Ors., 2003 LLR 820: 2003-III LLJ 226

A plea not taken before the lower court cannot be allowed in appeal hence the High Court has rightly rejected the contentions of the employers.

K.R. Anitha & Ors. v. E.S.I. Corporation & Anr., 2003 LLR 1075

Normally a plea which has not been taken before the Labour Court cannot be taken before the Higher Court but if such has been taken in other similar cases then the High Court will not ignore it.

Haryana Tourism Corporation Ltd. v. Fakir Chand etc. etc., 2003 LLR 1121

Whether a society or a co-operative society or a company is a State or not, the decisive factor will be real status of the body with respect of the control of Government hence none of the indicia existed in the case of Mill, as such same being neither instrumentality nor agency of government cannot be said to be an authority and, therefore, it is not State within the meaning of Article 12 of the Constitution.

Kisan Sahkari Chini Mills Ltd. Sultanpur, U.P. v. Satrughan Nishad and Ors., 2003 LLR 1122: 2003-III LLJ 1108

The principle of 'equal pay for equal work' should not be applied when casual/daily wage workers are regularised.

State of Orissa and Ors. v. Balaram Sahu and Ors., 2003 LLR 44

Direction to grant pay scale to an employee appointed on temporary basis on consolidated pay cannot be given when there is no material palced before the Court the comparison in order to apply the principle of 'equal pay for equal work'.

Orissa University of Agriculture & Technology and Anr. v. Manoj K. Mohanty, 2003 LLR 611: 2003-II LLN 1096: 2003 997) FLR 800

A right to carry on business is subject to compliance of constitutional obligations and as such financial stringencies may not be a ground for non-payment of wages to the employees who have been subjected to hardship and as such it becomes the obligation of the Court to mitigate the exterme hardship of the employees involving violation of fundametal and human rights

of the citizens of India in the State of Bihar and Government Companies and Corporations fully owned or controlled by the State.

Kapila Hingarani v. State of Bihar, 2003 LLR 628: 2003 (98) FLR 329

Equal pay for equal work is a concept which requires, for its applicability, complete and wholesale identity between a group of employees claiming identical pay scales and other group who have already earned such pay scales.

State of Haryana & Anr. v. Tilak Raj & Ors., 2003 LLR 823: 2003-III LLJ 487

It is always in the interest of the workmen that disputes concerning them are adjudicated in the forums created by the Industrial Disputes Act and not in a civil court to ensure that the workmen are not caught in the labyrinth of civil courts with layers upon layers of appeals, revisions and the elaborate procedural laws, which the workmen can ill afford whereas the awards of the Labour Court or the Industrial Tribunal are amenable to jurisdiction of the High Court under Article 226 as also to the jurisdiction of this Court under Article 32 of the Constitution of India, but they are extraordinary remedies subject to several self-imposed constraints.

Uttar Pradesh State Bridge Corporation Ltd. & Ors. v. Uttar Pradesh Rajya Setu Nigam and Ors., 2004 LLR 289

A contract of personal service cannot be specifically enforced and the Civil Court will not give a declaration that the contract subsists and the employee continues to be in service against the will and the consent of the employer.

Pearlite Liners Pvt. Ltd. v. Manorama Sirsi, 2004 LLR 193

Court should not interfere with adm. decisions of employer unless illogical, suffer from procedural impropriety or shocking.

V. Pamana vs A.P.S.R.T.C. & Ors. 2005 LLR 1089

Interference with punishment should not be done by High Court in a routine matter.

Chairman & M.D. Bharat Pet. corpn. Ltd. & Ors. vs T.K. Raju. 2006 LLR 406

Civil Court has no jurisdiction to entertain the suit challenging termination of workman.

State of Haryana & Ors. vs. Bikar Singh. 2006 LLR 661

In spite of having employed for long time, adhoc appointment on temp. post can not be regularised.

Indian Council of Medical Research & Ors. vs. K. Rajyalakshmi. 2007 LLR 337

Sugar factory run by co-operative society will not be a state, hence no writ petition can lie.

Bhadra Sahakari S.K. Niyamita vs. Chitradurga Mazdoor Sangh and Others. 2007 LLR 559

Courts cannot direct regularisation of temporary/casual/daily rated workers dehors the rules.

Punjab Water Supply & Sewerage Board vs. Ranjodh Singh & Ors. 2007 LLR 561