



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF DECEMBER, 2025

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PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE UMESH M ADIGA

WRIT APPEAL NO. 1711 OF 2025 (L-ID)

BETWEEN:

THE MANAGEMENT OF
INDIAN INSTITUTE OF
MANAGEMENT,
BANNERGHATTA ROAD,
BENGALURU-560 076
NOW REPRESENTED IN
THESE PROCEEDINGS BY ITS
DEAN (ADMIN)
DR. JAYADEV M.

...APPELLANT

(BY SRI. PRADEEP S. SAWKAR, ADVOCATE)

AND:

SRI. D. MANIKYA
S/O LATE DORISWAMY,
AGED ABOUT 72 YEARS,
RESIDING AT NO.55/A,





6TH CROSS,
B. BASAVALINGAPPA NAGAR,
BILEKAHALLI POST,
BANNERGHATTA ROAD,
BENGALURU-560 076.

...RESPONDENT

(BY SRI. SAMARTH MURTHY, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 24.06.2025 OF THE LEARNED SINGLE JUDGE IN WP No-19969/2016 (L-ID) IN SO FAR AS IT RELATES TO THE MATTER BEING REMITTED BACK TO THE LABOUR COURT FOR FRESH ADJUDICATION RELATING TO ENTITLEMENT OF BACK WAGES FROM 29.09.2005 TO 13.01.2011 AFTER DEDUCTING THE AMOUNT PAID AS INTERIM RELIEF AS PER ORDER OF LABOUR COURT DATED 05.05.1995 AND THE WAGES PAID UNDER SECTION 17B AS PER ORDER DATED 08.11.2006 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH

and

HON'BLE MR. JUSTICE UMESH M ADIGA



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE UMESH M ADIGA)

This Writ appeal is filed under Section 4 of the Karnataka High Courts Act, 1961 directed against order dated 24.06.2025 passed by learned single Judge in W.P.No.19969/2016 (L-ID).

2. The brief facts of the case are that respondent was appointed as a plumber on 21.10.1974 on temporary basis, and thereafter, he was regularised on 25.09.1975. It was alleged against him that on 04.02.1991, 05.02.1991 and 29.08.1991 he had committed certain misconduct. In this regard, a complaint was made against him and he was placed under suspension by an order dated 29.08.1991. Thereafter, a charge sheet dated 10.09.1991 was issued against him, mentioning in detail about the charges levelled against him. He was called upon to reply to the said charges. The respondent submitted a reply; however, the employer did not accept it as satisfactory and therefore, appellant ordered to hold an enquiry.



3. The Disciplinary Authority appointed enquiry officer to hold enquiry. The enquiry officer conducted enquiry and gave report to Disciplinary Authority. The Disciplinary Authority after issue of notices to respondent held that the charges levelled against him were proved. The Disciplinary Authority imposed punishment of dismissal of respondent from service with immediate effect vide order dated 20.08.1993.

4. Respondent filed a petition under Section 10(4-A) of the Industrial Dispute Act, 1947 (for short 'Act, 1947) before the II Addl.Labour Court, Bengaluru in I.D.No.98/1993, challenging the order of his dismissal.

5. The Labour Court after recording the evidence of both the parties and on appreciation of the materials available on record vide its judgment and award dated 29.09.2005 allowed the petition partly, and passed the following:



ORDER

"i. The dispute raised by the first party workman under Sec.10(4-A) of the ID Act.1947 is allowed in part and the impugned order of dismissal dated 20th August 1993 is hereby set aside and the second party management is hereby directed to reinstate the first party workman into his original post forthwith together with continuity of service and all other consequential benefits with backwages already paid as per order dated 05.05.1995 passed by this court on the application filed by the first party for interim relief.

Further, the second party management is directed to treat the period of suspension of the first party as leave at his credit and if no leave is available at his credit the same shall be treated as leave without allowance."

6. Both appellant as well as respondent challenged the said award passed by the Labour Court dated 29.09.2005 by filing the W.P.Nos.13097/2006 and 10409/2008 respectively before this Court. The learned Single Judge heard both writ petitions together and by common order dated 08.11.2006 dismissed both the writ petitions. Against the said orders, appellant filed an appeal in W.A.No.379/2010 and respondent filed WA.No.2457/2010.



The Division Bench of this Court heard both the appeals together and by common order dated 23.11.2010, allowed W.A.No.379/2010 filed by appellant in part and dismissed W.A.No.2457/2010.

7. The appellant filed an application I.A.No.1/2013 in W.A.No.379/2010 seeking certain clarification in respect of certain financial benefits/service benefits to respondent. The said application was heard by the Division Bench of this Court in W.A.No.379/2010 and by order dated 13.03.2013, clarified, which reads as under:

"This application is filed for clarification of the order dated 23.11.2010. By the said order, this Court partly allowed the writ appeal filed by the Management and punishment of withholding two increments cumulatively was imposed. It was made clear in the order that the workman is not entitled to back wages on the principle of 'no work no pay'. Therefore, all that the workman is entitled to is reinstatement and all consequential benefits excluding back wages subject to withholding two increments cumulatively. Order accordingly."

8. Appellant did not implement the award passed by the Division Bench in W.A.No.379/2010 and connected



matter. Therefore, respondent sought permission of Labour Commissioner to prosecute the appellant for non implementation of the award passed by the Division Bench of this Court. The Additional Labour Commissioner considering the representation, had passed an order dated 26.09.2011 granting sanction for prosecution under Section 29 of the Act, 1947.

9. Being aggrieved by the said order, appellant filed W.P.No.10082/2012 on 29.03.2012. The learned Single Judge heard the W.P.No.10082/2012 and by order dated 22.09.2015 allowed the writ petition in part and quashed the order of sanction. However, a liberty was reserved to the respondent to work out his remedy under Section 33-C(2) of Act, 1947 regarding the claims, keeping open the contention of the parties on merits.

10. Accordingly, the respondent filed an application on 13.11.2015 under Section 33-C(2) of Industrial Dispute Act before II Additional Labour Court, Bengaluru in application No.29/2015 claiming a sum of Rs.49,00,000/-



with interest at the rate of 12% per annum towards arrears of wages, difference in substances allowance, interim relief, incentives, mobile bills, medical and quarters benefits, conveyance allowance etc. Appellant herein appeared in the said case and filed counter statement. The Labour Court recorded evidence of both the parties, and thereafter, heard the arguments of learned counsel appearing for both the parties and framed the questions to be answered by it and on appreciation of the materials on record by judgment and award dated 05.03.2016 passed the following order:

ORDER

"The application filed on behalf of the applicant D. Manikya under Section 33-C(2) of the Industrial Dispute Act, 1947, claiming an amount of Rs.49,25,122/- along with medical and quarters benefits including 36 pairs of uniform, stitching charges and shoes for 18 years-18 pairs, chappal for 18 pairs and EL encasement is rejected."

11. The said order passed by the Labour Court dated 05.03.2016 in Application No.29/2015 is challenged by



respondent by filing the W.P.No.19969/2016(L-ID). The learned Single Judge, after hearing both the parties on record and considering materials available on record, by the impugned order dated 24.06.2025, passed the following:

ORDER

- i. The writ petition is allowed-in-part.*
 - ii. The impugned order dated 05.03.2016 passed by the Labour Court in Application No.29/2015 is set aside.*
 - iii. The matter is remitted to the Labour Court for further adjudication relating the petitioner's entitlement relating to back wages from 29.09.2005 to 13.01.2011.*
 - iv. It is made clear that while adjudicating on the said claim, the amount already paid has to be excluded as per the order dated 05.05.1995 before the Labour Court and as per the order dated 08.11.2006 under Section 17-B of the Act, 1947;*
 - v. The Labour Court shall endeavour to dispose of this application as expeditiously as possible as the dispute is pertaining between the parties since 1993 and both the parties shall cooperate for early disposal.*
- No order as to courts.*



12. The same order is impugned in the present writ appeal.

13. We have heard the arguments of both the sides.

14. As discussed above, in the award passed in I.D.No.98/1993 dated 29.09.2005, the II Additional Labour Court, Bengaluru has granted the relief in favour of respondent and the order of dismissal was set aside and appellant was directed to reinstate the respondent into his original post along with other service benefits and his absence shall be considered as leave if available at his credit or else shall be considered as leave without pay.

15. The Division Bench of this Court in W.A.No.379/2010 filed by the appellant herein was partly allowed, imposing punishment of withholding of two increments cumulatively and remaining portion of the order passed by the Labour Court was not disturbed. The Division Bench of this Court in WA.No.379/2010 and W.P.No.2457/2010, vide order dated 13.03.2013 has



clarified that respondent was not entitled to back wages on the principle of "no work, no pay", and respondent is entitled to reinstatement with all the consequential benefit excluding back wages subject to withholding two increments cumulatively. It appears that the said order has not been challenged by either of the parties and it attained finality.

16. The Labour Court in application No.29/2015 dated 05.03.2016, rejected the application filed by the respondent under Section 33(C)(2) of Industrial Dispute Act, 1947 seeking an amount of Rs.49,25,122/- being arrears of back wages along with other financial benefits, mentioned in the said order.

17. In the order dated 24.06.2025 in the impugned writ petition, the learned single Judge observed that respondent is entitled to back wages from the date of award passed by the Labour Court till the date of reinstatement i.e. 29.09.2005 to 13.01.2011. The learned single Judge has also found that some of the payments made to the respondent was not considered by the Labour Court. Therefore, the



learned Single Judge found that it has to be re-calculated. Therefore held that the Labour Court has to calculate the amount payable to respondent considering all these facts which are noted in the impugned judgment passed by the learned Single Judge and it is in accordance with law and does not call for any interference by this Court. The grounds of appeal are not tenable.

18. The contentions of the appellant that in W.A.No.379/2010 in the clarification order, it was held that respondent was not entitled for the back wages on the principle of "no work no pay." But the learned single Judge has failed to apply the aforesaid ratio in the impugned order, therefore, it is erroneous. The said contention is not tenable. The Labour Court in I.D.No.98/1993 dated 05.05.1995 directed the appellant to reinstate the respondent with all the service benefits. Respondent being aggrieved by the same preferred writ petition and thereafter, writ appeal. In both the cases he obtained stay of the said orders. Due to the said stay orders passed by the learned Single Judge as well as Division Bench in the previous round of litigation,



respondent was unable to work. There was no fault of respondent and he had not refused to work. Therefore, the appellant cannot take the contention that "no work no pay" principle is also applicable during a period of stay order obtained by the appellant in the writ petition as well as in writ appeal filed in the previous round of litigation.

19. The appellant has relied on the judgment of Hon'ble Apex Court in the case of **STATE OF GUJARAT AND OTHERS VS. DILIPBHAI, SALIGRAM PATIL**¹. This judgment was considered by the learned Single Judge in the impugned judgment. Therefore, there is no need to reiterate the same. The learned Single Judge has not ordered to pay back wages for the period from the date on which he was suspended till the order passed by the Labour Court. The order of the Labour Court was upheld by the Division Bench in W.A.No.379/2010 and also in the clarification orders. The said orders attained finality. Hence the said repeated contention of the appellant is not tenable.

¹ (2006) 8 SCC 72



20. The learned counsel for respondent relied on the judgment of Hon'ble Apex Court in the case of **DEEPALI GUNDU SARWASE V. KRANTI JUNIOR ADHYAPAK MAHAVIDYALAYA(D.Ed.,) and others²** pertaining to payment of the back wages and he also relied on the judgment of the Hon'ble Apex Court in the case of **Hindustan Tin Works Pvt. Ltd. Vs. Employees of M/s Hindustan Tin Works Pvt. Ltd. And others³**.

In the case of **Deepali Gundu Sarwase**(referred *supra*) at paragraph Nos.22 and 38.6, the Hon'ble Apex Court observed as under:

"22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned,

² 2013) 10 SCC 324

³ 1979 (2) SCC 80



but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."

It is further observed in paragraph No.38.6 that:

"38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the



parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-a-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works (P) Ltd. vs. Employees."

The above law is aptly applicable to the facts of the present case.

21. The law laid down in both the judgments are pertaining to payment of the backwages. As already referred supra, the principle of "no pay no work" was applied only for the period from the suspension of the petitioner during the course of inquiry till he was ordered to be reinstated by the



Tribunal. The applicant ought to have complied the said order and preferred an appeal against the same. On the contrary, the appellant, without giving effect to the orders passed by the Labour Court, preferred W.P.No.13097/2006 C/w W.P.No.10409/2008 and obtained a stay order. Thereafter, the stay of operation of the order of Labour Court was continued till disposal of W.A.No.379/2010 C/w W.A.No.2457/2010. From the date of the order passed by the Labour Court in I.D.No.98/1993, the respondent was eligible to be reinstated. When it was held by the Labour Court that dismissal of respondent from the service by the Management of appellant was contrary to the provision of law and hence appellant was liable to pay the back wages from the date of the said order till reinstatement. That was clarified by the learned Single Judge in impugned judgment.

22. The learned Single Judge in the impugned judgment, remanded the matter to the Labour Court for the purpose of calculating of the amount payable to respondent /workman. There is no illegality in the said findings.



23. For the aforesaid discussions, we do not find any merit in the contention of the appellant.

24. Accordingly, we pass the following:

ORDER

Writ Appeal is ***dismissed***. Both the parties shall bear their own costs.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(UMESH M ADIGA)
JUDGE**