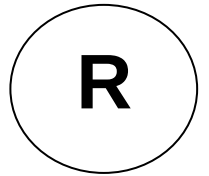


ARHJ:
14.07.2025



ORDER

IN

WRIT PETITION NO. 15186 OF 2023 (L-RES)

BRN
CT:VN
List No.: 1 Sl No.: 58



HC-KAR



R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 15186 OF 2023 (L-RES)

BETWEEN:

K.M. GURUSHIVAKUMAR,
AGED ABOUT 58 YEARS,S/O SRI. K MALLIAH,
MP/3997, LAKSHMISAGAR,
KADUR, CHIKKAMGALUR DISTRICT - 577 548.

...PETITIONER

(BY SRI PUTTIGE R RAMESH, SENIOR ADVOCATE
A/W SMT LAKSHMI S HOLLA, ADVOCATE)

AND:

1. LIC OF INDIA,
DIVISIONAL OFFICE,
"JEEVAN KRISHNA", P AND IR DEPARTMENT
AJJARKAD, UDUPI - 576 101,
BY ITS DIVISIONAL MANAGER.

2. THE MANAGER (P AND IR),
P AND IR DEPARTMENT,
LIC OF INDIA, AJJARKAD, UDUPI - 576 101.

...RESPONDENTS

(BY SRI S N MURTHY, SENIOR ADVOCATE A/W
SRI RAJASHEKAR K, ADVOCATE FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE
RESPONDENTS TO COMPLY WITH THE TERMS OF THE
AWARD OF CGIT AT ANNEXURE-A DTD 16.8.2001 AT





CR.NO.63/98 AS WELL AS THE DIRECTIONS GIVEN BY THIS HON'BLE COURT.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

This petition is by the workman. The petitioner seeks a direction to the respondents to comply with the award passed by the Central Government Industrial Tribunal (Tribunal) and to grant all other consequential reliefs. Later, by way of an amendment, the petitioner sought a direction against 1st respondent to pay wages from 16.08.2001 to 04.02.2019 as directed in the *award* passed by the Tribunal.

2. The operative portion of the award dated 16.08.2001 reads as under:

"Reference is allowed, and the action of management in dismissing the first party/workman from service is not justified as prayed by the first party and further, the management is directed to reinstate the First



Party with continuity of service from the date on which he was terminated. Accordingly award is passed as prayed by the first party."

3. Following facts are admitted.

The challenge to the **award dated 16.08.2001**, by the respondent Life Insurance Corporation of India (LIC) in Writ Petition No.43164/2001 was unsuccessful, and so also its challenge in Writ Appeal No.913/2006.

4. Civil Appeal No.7069/2010 filed by LIC, against the said aforementioned order in the Writ Appeal was dismissed on 12.10.2017 holding that there is no merit in the appeal.

5. The workman's contempt petition in CCC No.468/2007 was pending consideration till 2019 as the petitioner had raised the contention that the direction to reinstate the petitioner was not complied with.

6. In the contempt proceeding, respondent/ employer filed a compliance report. This Court did not accept



the respondent's plea that the award is complied with. Later, one more report is filed stating that the award is complied. In the compliance affidavit dated **01.02.2019**, the respondent made a statement that the award is complied with vide letters dated 18.05.2018, 10.08.2018 and **04.02.2019**. Noticing the fact that a false affidavit dated **01.02.2019** was filed by the respondent, stating that the award is complied with vide order dated **04.02.2019**, the Court did not accept the report.

7. Petitioner-workman was reinstated on 18.02.2019 and, thereafter, on 11.03.2019, the contempt proceeding was dropped.

8. The petitioner is attaining the age of superannuation on 31.07.2025, i.e., this month end.

9. Learned Senior counsel Sri S.N. Murthy appearing for the LIC raised a preliminary objection as to the maintainability of the petition, citing efficacious statutory remedy under Section 33-C(2) of the Industrial Dispute Act, 1947 (Act, 1947).



10. Sri S.N. Murthy, the learned Senior Counsel, also urged that the workman is already reinstated and the workman has to approach the Tribunal to execute the award for recovery of wages from the date of the award till his reinstatement. It is also urged that no ground is made out to bypass the statutory remedy, and the amount payable to the workman has to be adjudicated by the Tribunal in exercise of the jurisdiction under Section 33-C(2) of the Act, 1947.

11. Learned Senior Counsel would also urge that in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India, the Writ Court cannot be converted into an executing Court.

12. In support of his contentions, learned Senior counsel would refer to the judgments of the Apex Court in:

1. ***The Central Bank of India Ltd. vs. P.S.Rajagopalan & Ors.***¹
2. ***The Chief Mining Engineer, East India Coal Company vs. Rameshwar & Ors***²

¹ MANU/SC/0149/1963



3. Central Inland Water Transport Corporation Ltd. vs. The Workmen & Ors.³

13. Learned Senior Counsel for the workman Sri Puttige Ramesh would submit that the writ petition is maintainable before this Court, statutory remedy under Section 33-C(2) of the Act, 1947 notwithstanding.

14. Learned Senior Counsel for the workman would submit that the petitioner has fought a prolonged battle from 2001, and he is yet to receive the benefit of the award, which was passed in 2001 and which attained finality in the Supreme Court in the year 2017.

15. It is also the submission that when the petition was filed in the year 2023, roughly two and a half years of service was left, and the writ petition to issue appropriate direction to the LIC to implement the award is maintainable as the LIC is substantially a State-owned Corporation.

² MANU/SC/0214/1967

³ MANU/SC/0292/1974



16. Learned Senior Counsel for the workman in support of his contentions has relied on the judgments of the Apex Court in

- 1. *Abl International Ltd. and Another vs. Export Credit Guarantee Corporation of India Ltd. and Others*⁴**
- 2. *State of Andhra Pradesh vs. Andhra Pradesh State Wakf Board And Others*⁵**

17. This Court has considered the contentions raised at the bar and perused the records. The principles laid down in the judgments cited by both sides are noted.

18. Award for reinstatement in favour of the workman, passed in 2001, and attained finality in 2017, after the dismissal of the Civil Appeal by the Apex Court. Petitioner/workman is reinstated almost a year and half after dismissal of appeal by the Apex Court.

19. It is not in dispute that the award of the Tribunal is not fully implemented since the wages payable from

⁴ (2004) 3 SCC 553

⁵ (2022) 20 SCC 383



16.08.2001, the date of the award till 18.02.2019, the date when the workman was reinstated, are not paid.

20. Ordinarily, the petitioner in whose favour the award is passed has to take recourse under Section 33-C(2) of the Act, 1947. The party in whose favour the award is passed cannot straight away knock on the doors of this Court in exercise of power under Articles 226 and 227 of the Constitution of India.

21. However, it is also a well-settled position of law that availability of a statutory remedy by itself will not preclude the courts from exercising its jurisdiction in appropriate cases.

22. The question before this Court is, "whether the petitioner-workman has made out a case for an appropriate direction against the respondent/LIC to direct the payment of wages pursuant to the award passed by the Tribunal, despite the remedy available under Section 33-C(2) of the Act, 1947?"



23. This Court is of the view that the petitioner has made out a case to invoke the writ jurisdiction of this Court, despite remedy under Section 33-C(2) of the Act, 1947, for the following combined reasons:

- (i) The award in favour of the petitioner was passed in the year 2001.
- (ii) The said award was questioned right up to the Apex Court, and the appeal was dismissed in the year 2017.
- (iii) LIC, which is a creature of a Statute where the State is a major shareholder, should have implemented the award without driving the workman to initiate the contempt proceeding.
- (iv) The contempt proceeding was initiated in the year 2007 and was pending before this Court, awaiting the final outcome of the Civil Appeal before the Apex Court. Even after the dismissal of the Civil Appeal in the year 2017, the reinstatement order was issued in the year 2018, without continuity of service though the award granted continuity of service.
- (v) This Court, trying the contempt petition, was not satisfied with the alleged compliance report filed by the LIC and directed personal appearance of the officer of LIC, and only in the year 2019, the LIC reinstated the



petitioner with continuity of service. Even then, the wages payable under the award passed in the year 2001 and which had attained finality in the year 2017 are not paid.

- (vii) The LIC, being a Corporation created under a Statute where the State is a major stakeholder, was under an obligation to pay the wages payable to the petitioner, if not, to the satisfaction of the petitioner, at least as per its calculation and bonafide understanding of the award. Unfortunately, that is not done so far, even after a lapse of almost 8 years, since the award has attained finality.
- (viii) The petitioner is completing the age of superannuation by the end of this month, and the writ petition was filed around 2 and a half years before his retirement.

24. If the Court is satisfied that the Award is not implemented, with necessary promptitude, by the State owned entities such as Life Insurance Corporation of India and the like, and do not even come forward to pay as per its calculation the wages/monetary benefits which would be the undisputed liability, at least from the employer's perspective,



then the Writ Court can step in to pass appropriate orders to ensure quick implementation of the award.

25. For the aforesaid reasons, despite the remedy under Section 33-C(2) of the Act, 1947 available to the petitioner, this Court is of the view that it is not fair on the part of this Court to direct the petitioner to approach the Tribunal for an adjudication under Section 33-C(2) of the Act, 1947.

26. At the same time, it is necessary to add an explanation. This order should not be construed as having laid down a law that in every case, the award or settlement under the Act, 1947, can be enforced in a petition under Article 226 of the Constitution of India. Such recourse is held permissible in this case as the employer is a statutory corporation and exceptional circumstances are noticed to entertain the writ petition.

27. It is also required to be clarified that the petitioner was reinstated to the post of a temporary employee. The wages payable to the temporary employee



are payable to the petitioner. Petitioner is not entitled to any higher wages payable to the permanent employee.

28. Thus, respondent No.1-Corporation is directed to pay wages to the petitioner from the date of the award till the date of reinstatement i.e.16.08.2001 to 04.02.2019.

29. This Court is of the view that the amount payable in terms of the award should have been paid immediately after the dismissal of the Civil Appeal by the Apex Court or within a reasonable time after reinstatement. More than 7 years have elapsed since the date of the dismissal of the Civil Appeal by the Apex Court. Still, the wages for the period from 16.08.2001 to 04.02.2019 are not paid.

30. Each month's wages payable to the workman remained with the employer, and the employee was deprived of such wages. Withholding of wages payable by the LIC, despite the Apex Court's verdict upholding the award is wholly unacceptable, and the LIC has to certainly account for it.



31. Under these circumstances, even though award is silent on the interest payable, considering the injustice suffered by the workman, on account of *ex facie willful default* in paying the arrears of wages for the period 16.08.2001 to 04.02.2019, this Court, in exercise of the jurisdiction under Article 226 of Constitution of India, directs the respondent-Corporation to pay simple interest @ 6% p.a. from 12.10.2017 (the date of dismissal of the Civil Appeal by the Apex Court) till realization of wages payable to the petitioner. If no interest is awarded, it amounts to rewarding the party who willfully defaulted in complying with the binding award which attained finality in 2017.

32. Though the Court initially was inclined to impose exemplary cost on the respondent corporation, considering the fact that interest is awarded on arrears of wages, restrained itself from imposing the cost.

33. Sitting in this jurisdiction, this Court has also taken note of considerable time taken by the Tribunals or Labour Courts in deciding application under Section 33-C(2)



the Act, 1947. It is also noticed that many a times enquiry is held without ascertaining the actual disputed claim and the admitted claim. In this process, even compliance of the undisputed terms of the award gets delayed. Hence, it is deemed necessary to issue some guidelines to be applied in appropriate proceedings under Section 33-C(2) of the Act, 1947.

34. In applications/ petitions filed under Section 33-C(2) of the Act, 1947, claiming wages or other monetary benefits under the binding award or settlement, after satisfying itself that there cannot be any dispute relating to maintainability of a petition under Section 33-C(2) of Act, 1947, Tribunal or the Labour Court may adopt the following measures to narrow down the scope of enquiry.

(a) *Ascertain as to whether the respondent has raised a plea of compliance of the award or settlement and if so, whether materials are placed to accept the plea of compliance of the terms of the award or settlement.*



- (b) If no such plea of compliance of the award or settlement is raised, or even if such plea is raised and no material is placed to accept such a plea relating to compliance, then the Tribunal or the Labour Court may direct the respondent bound by the award or settlement to come out with the calculation of the monetary benefits payable in terms of award or settlement, along with supporting documents justifying such calculations.*
- (c) Once such calculation is furnished along with supporting documents, and if the petitioner agrees with such calculation, then the Tribunal or the Labour Court shall fix the date for payment and close the proceeding, if no other claim is made.*
- (d) If the petitioner does not agree with the calculation submitted by the respondent and claims higher monetary benefit, then the dispute should be adjudicated only in respect of difference claimed and the Tribunal or the Labour Court shall direct the*



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*respondent by way of interim measure, to pay the **undisputed monetary benefits** within such time to be fixed (before closure of the proceeding) having regard to the facts of the case.*

- (e) After ascertaining the undisputed claim, the Tribunal or the Labour Court in appropriate cases, may also direct compliance/satisfaction of such undisputed claim by way interim measure as a condition precedent to contest the disputed claim and thereafter, has to pass appropriate orders on the disputed claim.*
- (f) In all proceedings under Section 33C(2) of Act of 1947, it may not be necessary to conduct a trial, and wherever the dispute can be adjudicated based on undisputed documentary evidence, the Tribunal or Labour Court shall endeavour to decide the application without holding a trial.*

35. Since this Court has concluded that the terms of the award dated 16.08.2001 are not complied, and writ



petition is maintainable in the facts and circumstances of the case.

36. Hence the following:

ORDER

- (i) The Writ Petition is ***allowed***.
- (ii) The respondent No.1 shall pay the arrears of wages to the petitioner for the period commencing from 15.09.2001 (one month after the award) till 18.02.2019, (date of reinstatement) along with interest at the rate of 6% per annum on the said arrears with effect from 12.10.2017 (date of dismissal of Civil Appeal by the Apex Court) till the date of full payment payable to the petitioner.
- (iii) The amount shall be paid within two months from the date of this order.
- (iv) No order as to costs.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

brn
List No.: 1 Sl No.: 58.