

Vol. 14 No. 8 February, 2012 Single Copy ₹ 85/-

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IMPORTANT Labour Judgments 2011

Post globalization and economic liberalisation, there have been radical changes in judicial interpretations thus redefining employee-employer relationship and other labour enactments.

2011 year has not been different too. This year also witnessed the same progressive thought process reflected in judicial verdicts. Since labour laws in the country have been extensively explained and interpreted, court rulings commonly known as case law have attained immense importance for organisations be it manufacturing, service or any other. BM research team has selected around 600 important judgments delivered and reported in various law journals during 2011 and comprehended the principle enunciated in few lines in simple language.

Here is the unique collection :



Abandonment
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Disciplinary Proceedings
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Retrenchment
Retirement
Settlement
Shops & Establishments
Standing Orders
Strike
Suspension
Termination
Trade Union
Transfer
Unfair Labour Practice
VRS
Workman

Abandonment

When bank employee remained absent unauthorizedly for about two years and did not respond to management's call to report for duty, voluntary abandonment is rightly presumed.

Yousuf Khan vs. State Bank of Hyderabad, rep. by its Managing Director & Another. 2011 LLR 967 (AP HC)

Abandonment by workman can't be presumed when management did not initiate any action to call upon to report for duty and offer for employment.

Divisional Manager, Boudh Commercial Division, Orissa Forest Development Corporation Ltd. vs. Godabarish Badajena & Anr. 2011 LLR 181 (Orissa HC)

By not applying leave in advance and remaining absent can't be presumed to be an act of voluntary abandonment.

Veer Chand vs. D.T.C. 2011 (128) FLR 803 (Del. HC)

When no letter of resumption of duty was sent to workman, abandonment of job by workman can't be presumed, that too without enquiry. Compensation in lieu of reinstatement rightly granted.

M/s. Hindustan Associates Engineer Pvt. Ltd. vs. Sh. K.K. Aggarwal & Ors. 2011 LLR 312 (Del. HC)

When suspension was revoked and employee was transferred, he was under obligation to make compliance of transfer order. Bank was justified in drawing presumption of voluntary abandonment of service by the employee when he failed to comply with the transfer order.

U.P. Singh vs. Punjab National Bank. 2011 LLR 708 (Del. HC)

Letter sent by UPC for reporting on duty can't be termed as service. Presumption of abandonment of job by employee not valid.

Shiv Kumar vs. Hansita 2011 LLR 13 (Del. HC)

Refusal to work on site along with other workers for repairing of advertising boards inspite of repeated calls by employer will amount to voluntary abandonment of service.

Vantage Advertising Pvt. Ltd. vs. Javedali Kutubali Hashmi. 2011 LLR 197 (Guj. HC)

Even if sending four letters to a daily wager asking him to report for duty will not be a ground of abandonment but will be a case of illegal termination, when not followed by retrenchment procedure. Compensation appropriate instead of reinstatement in such a case.

Municipal Corporation of Delhi vs. R.L. Chugh and Others. 2011 LLR 1256 (Del. HC)

Apprentice

Board can't adopt different yard stick for same category of apprentices for their appointment after completion of apprenticeship. When others appointed, few one can't be left behind.

Chairman, Tamil Nadu Electricity Board and Another. vs. D. Venkatesan and Another. 2011 (128) FLR 949 (Mad. HC)

Back wages

Allowing 50% back-wages by the Division Bench of the High Court not proper since the employer was not given an opportunity for hearing before passing of the order.

T.V.S. Finance and Services Ltd. vs. H. Shivakumar. 2011 LLR 613 (S.C.)

Working as barber in own saloon, will amount to gainful employment, hence not entitled to full back wages.

Mahalakshmi Fibres and Industries Ltd., Kolkata and another vs. Deolal Hazam. 2011 (128) FLR 258. (Jharkhand HC)

Reinstatement without back wages proper of a driver when his negligence in driving vehicle was negligible.

Tamil Nadu State Transport Corporation (Kumbakoham) Ltd. Rep. by its General Manager, Trichy vs. Presiding Officer, Labour Court, Trichy. 2011 LLR 154 (Mad. HC)

In the absence of proof established by the workman about his unemployment, there will be no justification for granting back wages.

Dugdh Utpadak Sahkari Sangh Ltd. vs. Presiding Officer, Labour Court & Others. 2011 LLR 245 (All. HC)

In the absence of establishing the fact that driver was appointed as daily wager and caused fatal accident, reinstatement of such driver with back wages would be proper.

Management, State Express Transport Corporation (Tamil Nadu) Ltd., Chennai vs. Presiding Officer, 1st Additional Labour Court Chennai and Another. 2011 LLR 281 (Mad. HC)

In the absence of charge sheet for unauthorised absence, compensation in lieu of reinstatement and back-wages has been rightly granted.

Delhi Transport Corporation vs. Kuldeep Singh. 2011 LLR 400 (Del. HC)

Daily wagers will not be entitled for Back Wages on reinstatement.

Ramjibhai Dhanjibhai vs. Deputy Executive Engineer.
2011 LLR 421 (Guj. HC)

No back wages to the employee for the period prior to his regularisation.

Satinder Kumar vs. Lt. Governor, NCT of Delhi and Another. 2011 LLR 483 (Del. HC)

In case of illegal retrenchment, reinstatement with 50% back wages granted by labour court held proper by HC.

Municipal Council vs. Chhotalal and Another.
2011 LLR 517 (Raj. HC)

When the dismissed chowkidar was detained in jail and could not get any job, 50% Back Wages instead of full would be appropriate as no able-bodied person can remain unemployed and might have worked to earn wages.

Nirmal Singh vs. Labour Court, Bhatinda and Others. 2011 LLR 768 (P & H HC)

No grant of back-wages automatically on reinstatement.

Ram Kumar vs. Presiding Officer, Labour Court, Ambala & Ors. 2011 LLR 820 (P&H HC)

High Court affirmed the award of Labour Court holding retrenchment illegal under Section 25-F of Industrial Disputes Act, 1947 and the workmen will be entitled to full back-wages.

Aska Central Multipurpose Co-operative Society Ltd. vs. Their Workmen rep. by the Secretary, Aska Regional Employees' and Workers' Federation and Another.
2011 (III) LLJ 45 (Orissa HC)

After acquittal from criminal court, when employee is not permitted to join duty by employer, he will be entitled to get back wages for the period, he was kept out without duty.

Inderjeet Singh vs. Delhi Transport Corporation. 2011 LLR 901 (Delhi HC)

On reinstatement, back wages is not a thumb rule. It lies with the court discretion.

Bhajibhai Danabhai Rabari & Ors. vs. State of Gujarat & Ors. 2011 LLR 903 (Guj. HC)

In the absence of any evidence of remaining unemployed throughout the period, awarding back wages on reinstatement till superannuation would be wrong and illegal.

Senior Regional Manager vs. C.G.I.T., Jabalpur and Another. 2011 LLR 941 (MP HC)

Even when the retrenchment was held to be illegal, reinstatement with 25% back wages instead of 50% would be proper.

Divisional Forest Officer, Forest Division, Rewa, M.P. and Another vs. Leelavati Yadav.
2011 LLR 494 (MP HC)

Income from agriculture land would not be taken as earning to adjust or deny back wages.

G.K. Pandey vs. Regional Director, International Airport Authority of India. 2011 LLR 1055 (Bom. HC)

No reinstatement with full back wages to employees who could not prove employer-employee relationship and infact were engaged for less than one hour every day in the morning for dusting and cleaning the bank premises.

The Saraswat Co-Op. Bank Limited vs. The Saraswat Co-Op. Bank Employees Union & Ors. 2011 LLR 1059 (Bom. HC)

Full Back Wages justified when termination effected without retrenchment compensation and workman was not gainfully employed.

1. *Ram Chander, Peon vs. The Presiding Officer, Labour Court and Another.* 2011 LLR 1217 (P&H HC)

2. *Haryana Agricultural University vs. Presiding Officer, Industrial Tribunal-cum-Labour Court and Another.* 2011 LLR 1218 (P&H HC)

Back Wages on reinstatement would be proper when the employee was dismissed solely on the basis of conviction by a criminal court and his conviction was set-aside by higher court.

Mohammed Abdur Raheem vs. State Bank of India and Another. 2011 LLR 1237 (Mad. HC)

Even when there is violation of sec. 25F of the ID Act, reinstatement with full or partial back wages is not automatic. Compensation is such case is appropriate.

International Tractors Ltd; Hoshiarpur & Anr. vs. Presiding Officer, Labour Court, Jalandhar & Anr. 2011 LLR 406 (P&H HC)

Bonus

Bonus and difference of wages can't be claimed by invoking sec. 33C(2) of the ID Act being not pre-determined.

State of U.P. and Anr. vs. Kunwar Pal Singh and Another. 2011 LLR 171 (All. HC)

Though Minimum Wages can be split up into various allowances under Minimum Wages Act but for the purpose of Bonus, minimum wages can't be bifurcated and bonus has to paid on total wages.

Globe Detective Agency (P) Ltd. vs. Presiding Officer, Industrial Tribunal No. III & Another. 2011 LLR 236 (Del. HC)

Where department and branches of the corporation have independent seprate balance sheets, bonus will be calculated by treating each branch independently.

Management of India Tourism Development Corporation, Madras and Anr. vs. General Secretary, All India ITDC Employees' Union. 2011 LLR 272 (Mad. HC)

Local body of Haryana State Agricultural Marketing Board will not be covered under Payment of Bonus Act.

Haryana State Agricultural Marketing Board Field Staff Employees' Welfare Association, Jind vs. State of Haryana and Another. 2011 LLR 301 (P&H HC)

Building & Construction Workers

Even the factory building under construction before its registration will be covered under BOCW Act.

Sterlite Engery Ltd. vs. State Orissa 2011 I CLR 358 (Orissa HC) ; 2011 LLR 322

Building construction company is under obligation to pay 1% cess under the Act and employer can deduct the same from the contractor bill.

M/s. Jain Construction Co. vs. Moradabad Development Authority and Another. 2011 LLR 925 (Allahabad HC)

No writ maintainable against assessment order of the authority under Construction Workers Welfare Cess Act. Employer should approach appellate authority and not the High Court.

M/s. Tanks and Tube-Wells Class-A Category Contractor vs. Collector/District Magistrate, Allahabad and Others. 2011 LLR 849 (All. HC)

Contract Labour

When it was held by labour court that subterfuge was resorted to by the employer to show that the workmen concerned were only of a contractor, SC found no infirmity in the judgment of labour court and high court. SC deplored such practices of employer.

Bhilwara Dugdh Uptadak Sahakari S. Ltd. vs. Vinod Kumar Sharma Dead by LRs & Ors. 2011 LLR 1079 (SC)

To get relief of reinstatement against principal employer, contract worker has to prove that he was directly paid by principal employer and not contractor.

General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon vs. Bharat Lal & Anr. 2011 I CLR 1 (S.C.)

In determining relationship between principal employer and contract labour, two determining factors are to be seen-

who pays the salary to the contractor labour and who has the control and supervision on the work of such employee. It is for the contract labour to prove that he was directly employed by the principal employer and not the contractor.

General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon vs. Bharat Lal & Anr. 2011 LLR 113: 2011 (128) FLR 560 (S.C.)

Employees of agencies running Govt. hostels can't claim status or salary at par with the State Govt. employees.

State of Rajasthan and others vs. Daya Lal and others. 2011 (128) FLR 928 (S.C.)

In view of MRTU & PULP Act and Bombay Industrial Relations Act, matter is referred to larger bench to decide whether a person who is employed by a contractor to undertake the work of principal employer, is an employee under the Act?

Raymond Ltd. & Another vs. Tukaram Tanaji Mandhare & Another. 2011 LLR 374 (S.C.)

When workers shown as contract labours but found as sham, must be presumed to be workers of principal employer and is such case reference is maintainable.

Airports Authority of India vs. Indian Airport Kamgar Union and others. 2011 (128) FLR 236 (Bom. HC)

Contractor labours engaged in a factory which is a scheduled employment under minimum wages act will be entitled for minimum wages of that establishment.

Sirpur Paper Mills Ltd. and Others vs. Government of A.P. Rep. by its Secretary, L.E.T. & P. Department and Others. 2011 LLR 250 (AP HC)

Female partners of construction firm not involved and responsible in the management of business affairs can't be prosecuted for violation of provisions of contract labour act.

M/s. Kamala Construction Company Through Rajendra Prasad Singh and Others. vs. State of Jharkhand and Another. 2011 LLR 424 (Jharkhand HC)

Industrial tribunal can't direct the management not to terminate the services of contract labour pending dispute of regularisation.

Batra Hospital Employees Union (Regd.) vs. Management of Batra Hospital & Medical Research Centre & Ors. 2011 LLR 682 (Del. HC)

Employees of the contractor can't be thrust upon the principal employer merely because the contractor did not obtain the requisite licence under Contract Labour Act. For such violation, action against the contractor can be taken under sec. 23 of the Act.

Merely because the principal employer paid bonus to the contractor workers, it will not establish the master servant relationship between principal employer and contractor labour.

M/s Indian Iron & Steel Company Ltd. (Burnpur Works, Burnpur) vs. State of West Bengal & Ors. 2011 LLR 771 (Cal. HC)

Court Powers

Railway canteen employees getting all benefits where it is mandatory to have a statutory canteen, will be treated as railway employees from the years of their joining.

Mohan Singh & Ors. vs. Chairman, Railway Board & Ors. 2011 LLR 319 (Del. HC)

Court will not re-assess the evidence and findings in the enquiry unless the findings are found perverse. Courts will however interfere with the enquiry if principles of natural justice or statutory regulations have been violated.

State Bank of Bikaner & Jaipur vs. Nemi Chand Nalwaya. 2011 LLR 634 (S.C.)

Courts should not grant relief beyond scope of prayers. When employer challenged the grant of back wages only and not the order of reinstatement, High Court erred in granting compensation in toto.

Ranbir Singh vs. Executive Engineer. 2011 LLR 612 (S.C.)

Interference on quantum of punishment would be permissible only in rare cases where punishment awarded appears to be unconscionable and actuated by malice.

State of U.P. & Ors. vs. J.P. Saraswat. LLN(2) 2011 P. 372 (S.C.)

Stay order of termination of a peon appointed on contract basis is illegal.

Mukhiya Karyapalak Adhikari, U.P. Khadi Tatha Gramodyog Board Karmit Anubhag, Lucknow & Anr. vs. Santosh Kumar. 2011 LLR 1235 (SC)

High Court not to interfere with the punishment, instead should have remanded back the matter to labour court if the punishment was disproportionate to the charges.

Management of Christ College Regd. Society vs. Kenchareddi. 2011 LLR 117 (S.C.)

Labour Court has no power to award interest on the amount due under section 33C(1) of the I.D. Act.

Durlabhbbhai Naranbhai Parmar vs. Divisional Controller. 2011 LLR 649 (Guj. HC) ; 2011 FLR (129) 1065

Industrial Tribunal should not have declined the withdrawal of the petition of the employer seeking permission for dismissal of the workmen during pendency of the industrial dispute and, as such, the High Court allowed the petition for withdrawal of application by the

Management subject to without prejudice to the rights of the concerned workmen.

Hema Chemicals Industries vs. Ramkailas Saroj. 2011 (II) LLN 216 (Guj. HC)

Tribunal has jurisdiction to entertain the application for setting aside the ex-parte award if made before award becomes enforceable.

Greaves Cotton Limited vs. Government of N.C.T. of Delhi and Others. 2011 LLR 244 (Del. HC)

Ex-parte award of labour court having sound reasons will not be interfered by High Court.

Bhimani Khadi Gramodyog Sangh vs. Malshi Desai Maheshwari. 2011 (I) CLR 869 (Guj. HC)

High Court will not interfere with the Award passed by the Labour Court unless the conclusions drawn by the tribunal are perverse or not based on the evidence on record.

Dhoraji Municipality vs. Maganlal Jivrajbhai. 2011 (I) CLR 852 (Guj. HC)

After expiry of 30 days of publication of award, no application for setting aside the ex-parte award can be entertained by the Labour Court as he becomes functus officio.

Management of M/s General Industries Co. & Anr. vs. Satish Kumar. 2011 LLR 792 (Del. HC)

High Court can't sit like a court of appeal and re-evaluate the evidence to arrive at different conclusion in writ jurisdiction. Only perversity of the empugned order can be examined.

Kumaon Mandal Vikas Nigam Limited through its Managing Director, Nainital vs. Presiding Officer, Labour Court Haldwani, District Nainital & Ors. 2011 LLR 797 (Uttara. HC)

The power of Labour Court under section 11A of the Industrial Disputes Act is so wide that a punishment of lesser magnitude can be imposed by it even while upholding the findings in the domestic enquiry.

Techno Electrics, Hyderabad vs. Chairman-Cum-Presiding Officer, Hon'ble Addl. Industrial Tribunal-Cum-Addl. Labour Court, Hyderabad and Another. 2011 (130) FLR 183 (AP HC)

Labour court has powers to reduce the punishment when it is considered shockingly disproportionate to the charges levelled. But where the misconduct was about misbehaving with superior and abusing him, punishment of dismissal should not have been reduced.

Karnataka State Road Transport Corporation, Kolar Division, Kolar vs. P. Selvaraj. 2011 LLR 934 (Karn. HC)

Interest rightly awarded on delayed payment of back-wages as granted by labour court at the time of reinstatement.

Manager, Naaz Cinema vs. Vasantben Rameshbhai Ghumadiya. 2011 (130) FLR 895 (Guj. HC)

Labour court while exercising equitable jurisdiction has powers to allow interest on delayed payment of due amount.

Manager, Naaz Cinema vs. Vasantben Rameshbhai Ghumadiya.
2011 LLR 1092 (Guj. HC)

Industrial Tribunal is not to confine its adjudication strictly to the matter as referred for adjudication since the incidental question can also be decided.

M/s. NHK Spring India Ltd., Malanpur, Bhind vs. NHK Shramik Sangh, Gwalior (M.P.) 2011 (130) FLR 768 (MP HC)

Tribunals adjudicating labour disputes should desist from trying some issues as preliminary ones.

Mahipal Singh vs. Presiding Officer, Industrial Tribunal-III & Ors. LLJ (III) 2011 P. 387 (Del. HC)

Dismissal of a workman, if not approved under sec. 33(2)(b) of the Act, becomes void abinitio and labour Court may allow a reference regarding such dismissal without considering it on merits.

Delhi Transport Corpn. vs. Prem Chand, ex sweeper. LLJ (III) 2011 P. 213 (Del. HC)

When witness shirked the responsibility in answering questions during cross examination, rejection of application by the court for summoning CMD of the company under MRTU & PULP Act in complaint for unfair labour practice is right.

Vasudev Tanaji Narvekar vs. Larsen & Toubro Ltd., Mumbai & Anr. 2011 LLR 395 (Bom. HC)

Industrial tribunal is under no legal obligation to call witnesses of his own for cross examination.

M.P. Hasta Shilpa Hath Kargha Vikas Nigam Maryadit Headquarters, Bhopal vs. Om Prakash Kori and Others. 2011 LLR 347 (MP HC)

When the workman is not acquainted with labour laws, he should be given opportunity to call record of the management to prove his 240 days working.

Mahesh Kumar Sharma vs. Divisional Forest Officer, General Forest Division, Sheopur and Ors. 2011 LLR 349 (MP HC)

Under section 11-A of Industrial Disputes Act, interference with punishment can be only in cases of dismissal or discharge of workman.

Zonal Manager, Bank of India vs. General Secretary, Bank of India Staff Union. LLJ (I) 2011 P. 529 (Mad. HC)

Labour Court becomes functus officio after 30 days of notification / publication of the award in the gazette, thereby cease to have jurisdiction to set aside the award.

M/s. Ador Multiproducts Ltd. vs. Mr. N.B. Sagadevan. 2011 LLR 1166 (Karn. HC)

There is no complete bar under Order 6 Rule 17 of the CPC and proviso thereto, for seeking amendment to the pleadings even after commencement of the trial.

Municipal Corporation of Delhi vs. Workmen,

Workers Working in Electrical Department of MCD. 2011 VII AD(Delhi) 531 (Del. HC)

Labour court is required to give adequate reasons while denying back wages on reinstatement when termination was found illegal.

Pramod Singh vs. Divisional Forest Officer and Others. 2011 LLR 1242 (MP HC)

Court not to interfere with the punishment of dismissal order when driver was found drunk and used filthy language and misbehaved with the passengers.

A. Chandrappa vs. Management of Bangalore Metropolitan Transport Corporation. 2011 LLR 1277 (Karn. HC)

It is not open for the courts to substitute their subjective opinion in place of legitimate conclusion arrived at by the enquiry officer.

The Management of Sundram Fasteners Limited vs. The Presiding Officer, II Additional Labour Court, Chennai and Another. 2011 LLR 286 (Mad. HC)

In the absence of any party while proceeding ex-parte labour court has to answer the reference and simply can't pass a 'no dispute award'. Labour Court can't reject the application for restoration of the dispute.

Satendra Singh Gujar vs. Bank of India, Gwalior and Others. 2011 LLR 61 (MP HC)

When workman played fraud in seeking ex-parte award even after receiving full and final payment, court can set aside such award on application filed by the employer within 30 days of its knowledge.

Preetam Singh & Sons vs. Chotey Lal and Others. 2011 LLR 242 (Del. HC)

Labour Court has no jurisdiction to entertain industrial dispute of workmen and Co-operative Society.

Dugdh Utpadak Sahkari Sangh Ltd. vs. Presiding Officer, Labour Court and others. 2011 (129) FLR 85 (All. HC)

Labour Court, in a petition under section 33C(2) of the Industrial Disputes Act, cannot grant relief for the period beyond what it has been claimed by the workman.

M/s. National Woollen Mills and Another vs. Ramesh Chand. 2011 (129) FLR 912 (P & H HC)

Court directions to make workman permanent at the lower grade will be proper.

Mahavir Steel Industries (P) Limited, Pune vs. Pune Workers Union, Pune and another. 2011(130)FLR 1103 (Bom. HC)

Daily wager

Daily wagers are not entitled for regularisation and payment of minimum wages in view of SC judgment of Uma Devi case [(2006 (109) FLR 826].

Superintending Engineer and Another vs. Secretary. 2011 LLR 422 (Guj. HC)

Daily wager appointed for a fixed period on scarcity relief work will not be entitled for reinstatement.

Gujarat Water Supply and Sewerage Board vs. M.D. Doshi. 2011 LLR 262 (Guj. HC)

Daily wager has no right to continue. Reinstatement liable to be set aside.

State of Maharashtra, Sub-Divisional Forest Officer, Beed vs. Sadashiv Maroti Doke and Another. 2011 (128) FLR 610

Daily wager appointed as tree planter does not hold a post. No reinstatement of such employee after termination. Can only be awarded consolidated damages.

State of U.P. vs. Presiding Officer, Labour Court (1st) U.P., Kanpur and Another. 2011 LLR 516 (All. HC)

Reinstatement of daily-wagers, appointed on fixed salary on temporary basis, would not be tenable since they have been engaged not against advertisement or through the employment exchanges hence it would be appropriate to convert the reinstatement into compensation only.

Manager, Gujcomasol Pesticides Deptt. vs. Kiritkumar Babulal Patel and Another. 2011 (129) FLR 831 (Guj. HC)

Compensation of fifty thousand instead reinstatement would be proper in the case of a daily wager who was retrenched without complying with the provisions and served for about 14 years as safai karmchhari.

Prasar Bharti Broadcasting Corporation of India vs. Presiding Officer, Industrial Tribunal, Patna and Another. 2011 (130) FLR 569

Compensation in lieu of reinstatement appropriate when termination of daily wagers or temporary workmen was illegal.

Aniruddhsinh Vajubha Zala & Anr. vs. Sarpanch. 2011 LLR 64 (Guj. HC)

A daily wager does not have the protection of ID Act.

State of Haryana and Others vs. Sanjay Kumar. 2011 LLR 1240 (P&H HC)

Disciplinary Proceedings

When employee absented in the enquiry even after notice, ex-parte enquiry will be justified.

Chairman-cum-M.D., Coal India Ltd. and Ors. vs. Ananta Saha & Ors. 2011 LLR 673 (SC)

Vague charges in the charge sheet will render the enquiry and dismissal invalid.

Where disciplinary authority choose to differ with Enquiry Officer's finding, employee must be given an opportunity of personal hearing before any action.

Anil Gilurker vs. Bilaspur-Raipur Kshetriya Gramin Bank & Anr. 2011 LLR 1121 (SC)

It is for the employer to prove the misconduct in the court when he chooses to dismiss employee directly without enquiry.

Amar Chakravarty & Ors. vs. Maruti Suzuki India Ltd. 2011 LLR 1 (S.C.)

Refusal of summoning defence witnesses and documents by the enquiry officer in the absence of justification and relevance stated by the employee, will not render enquiry invalid.

State Bank of India & Ors. vs. Bidyut Kumar Mitra & Ors. 2011 LLR 561 (S.C.)

If employee absents from enquiry without information to EO even after three chances are given and enquiry held ex-parte, cannot be said to be vitiated. It is not the duty of the enquiry officer to find out from the management whether any intimation was received from the employee about enquiry.

S.B.I. vs. Hemant Kumar. 2011 LLR 449 (S.C.)

Punishment of demotion with promotion bar for seven years is appropriate for the misconduct of financial irregularity by bank employee. Even the reviewing authority of the bank should not have interfered with the punishment of removal from service and reduced it.

State Bank of Mysore & Others etc. vs. M.C. Krishnappa. 2011 LLR 857 (S.C.)

Issuing charge sheet after the employee was relieved and VRS accepted in all respects, is untenable in law. Such action is totally opposed to settled principles of law.

G. Mallaiah vs. A.P. State Handloom Weavers Co-Operative Society Ltd. and Another. 2011 LLR 986 (AP HC)

Having believed the misconduct, tribunal ought not to have disturbed the punishment given by corporation. In domestic enquiry guilt of employee has to be established on preponderance of probabilities and degree of proof is not that of beyond reasonable doubt.

Life Insurance Corporation of India vs. General Secretary & Anr. 2011 II CLR 271 (Guj. HC)

In the matter of disciplinary proceedings High Court is only concerned about the decision making process rather than on the merits of the proceedings.

S. Singaravelu vs. General Manager, Southern Railways, Chennai and Anr. 2011 LLR 35 (Mad. HC)

Conclusion drawn by the enquiry officer on the basis of undisclosed facts and circumstances and not on evidence will make the enquiry vitiated.

Shyamal Kumar Sarkar vs. Bangiya Gramin Vikas Bank and Another. 2011 LLR 78 (Cal. HC)

When workman conceded that disciplinary enquiry against him was fair and proper, court can't declare it unfair.

Rachappa vs. Managing Director, North-East Karnataka Road Transport Corporation, Gulbarga. 2011 LLR 63 (Karn. HC)

In departmental enquiry, it is not necessary that the charges have to be proved beyond reasonable doubt as in court of law. What is required in enquiry is preponderance of possibility.

Sanat Kumar Vijjan vs. UCO Bank & Ors. 2011 LLR 85 (Uttarakhand HC); 2011 LLJ (II) 74

Punishment of dismissal would be illegal on the charge of negligence not framed in the charge sheet. EO exonerated the employee from the charges of embezzlement leveled against the employee.

Kashmira Singh vs. Punjab State. 2011 LLR 155 (P & H HC)

Employee can't claim subsistence allowance from the employer during the period of de novo inquiry in the court.

Mumbai Cricket Association vs. Pramod G. Shinde. 2011 I CLR 745 (Bom. HC)

When principles of natural justice are not followed and Inquiry Officer was biased, civil courts will have jurisdiction to intervene.

Delhi Transport Corporation vs. Subhash Chand. 2011 (128) FLR 707 (Del. HC)

Onus of proof that inquiry was not fair was on the workers' union which had to prove the allegation made by it.

Federal Mogul Bearing India Ltd. vs. State of Himachal Pradesh & Ors. LLJ (I) 2011 P. 605 (HP HC)

Enquiry vitiated when enquiry officer performs the role of prosecutor by cross examining the witnesses of both the parties. Requisite degree of impartiality is expected to be maintained by EO in enquiry.

C.R. Das-I Alias Chittaranjan Das vs. Personal Manager, Jute Corporation of India & Anr. 2011 LLR 529 (Cal. HC)

Enquiry conducted in a one go in single day without examining material witnesses can't be held to be proper and legal.

U.P. State Road Transport Corporation, Jhansi vs. Mohd. Ahmad and Another. 2011 LLR 926 (Allahabad HC)

Over work is no licence to negligence. Domestic enquiry can't be held to be unfair on ultra technical and trivial defects.

Managing Director, U.P.S.R.T.C., Lucknow and Others vs. Har Prasad Pathak and Another. 2011 LLR 930 (Allahabad HC)

When the workman was acquitted in criminal trial by giving benefit of doubt, initiation of domestic enquiry after such acquittal cannot be stayed on the ground of delay.

Om Prakash-II vs. Delhi Society for Prevention of Cruelty to Animals & Ors. 2011 LLR 614 (Delhi HC)

When disciplinary authority did not agree with the findings of the enquiry officer exonerating the employee from misconduct and punishing him by his own reasons without giving him notice, will be illegal and will amount to violation of principles of natural justice.

Janeshwar Prasad Yadav vs. State of Jharkhand and others. 2011 (129) FLR 690 (Jhar. HC)

Where the inquiry is vitiated only then the labour court can go into merits of charges and direct the employer to prove the charges.

Uttarakhand Transport Corporation vs. Presiding Officer, Labour Court, Dehradun and others. 2011 (129) FLR 700 (Uttara. HC)

Calling employee to first lead evidence in the enquiry will vitiate the enquiry. Management has to lead the evidence first.

Chief Manager, Rajasthan State Road Transport Corporation, Vidhyadhar Nagar Depot, Jaipur vs. Sukhveer Singh (since deceased) through his Legal Heirs & Anr. 2011 LLR 680 (Raj. HC)

Court can't grant stay against domestic enquiry pending criminal trial.

National Insurance Co. Ltd. vs. Sunil kumar and Others. 2011 LLR 754 (Del. HC)

Confirming the order of punishment by board of directors without giving opportunity of hearing to the employee would be violative of principles of natural justice.

Madhukar Tulsiram Tayade vs. Chairman, Board of Directors, Vidarbha Kshetriya Gramin Bank, Akola and Others. 2011 LLR 770 (Bom. HC)

Findings of Court in a criminal case must prevail over the department proceedings on same set of charges.

State of West Bengal and others vs. Vidyasagar Pandey and another. 2011 (129) FLR 45 (Cal. HC)

It is not the quantum of amount misappropriated but the unreliable conduct of the employee which is relevant for the purpose of imposing penalty.

K. Murthy vs. Labour Court & Ors. LLN (1) 2011 P. 105 (Mad. HC)

When reasons in writing are recorded by authority for dispensation of enquiry being not reasonably practicable to follow the procedure prescribed in the rules, authority can dispense with the enquiry and terminate the services.

S.P. Arya vs. Union of India & Ors. 2011 LLR 1139 (Delhi HC)

Charge sheet about the misconduct of theft has to be very precise and specific. In that absence workman can't be held responsible for loss of goods by EO in the enquiry.

K. Ramesh vs. Presiding Officer, Principal Labour Court, Chennai & Anr. 2011 LLR 1149 (Mad. HC)

Pending disciplinary proceedings, transfer of the president of the union instead of placing under suspension can't be said to be malafide.

Kedar Singh Baghel vs. M.P. Purva Kshetra Vidyut Vitaran Company Limited, Jabalpur and Others. 2011 LLR 1185 (Mad. HC)

Enquiry will be invalid when EO himself appeared as witness. Termination on the basis of such enquiry not sustainable.

The Haryana State Co-operative Supply and Marketing Federation Ltd. vs. Prem Singh & Anr. 2011 LLR 1188 (P&H HC)

Suspension of an employee has to be supported by justifiable reasons.

Sharad Chandra Sharma vs. Delhi Transco Limited & Ors. 2011 LLR 1226, 2011 VI AD (Delhi) 557 (Del. HC)

Employee failed to participate in the enquiry, can't further challenge the violation of principles of natural justice.

Jitender Kumar Goel vs. Director, Directorate of Education & Ors. 2011 VII AD(Delhi) 592 (Del. HC)

When enquiry is not delayed for the reason directly attributable to workman, he is entitled to subsistence allowance in accordance with the service rules of the bank or settlement with the union.

Smt. Jayashree Vani vs. Bank of India, Bangalore. 2011(130) FLR 1034 (Karn. HC)

Even if there is a provision in the bank rules for conducting common enquiry against two or more employees on the ground of having identical charges, bank can go for individual enquiries.

T. Baba Prasad vs. Andhra Bank and two others. 2011(4) LLN 94 (AP HC)

High Court is not required to interfere with the findings of the enquiry officer based on evidence and decision of the disciplinary authority to come to a different finding.

Failure of employee to submit written explanation of the charge sheet, can't be presumed as admission of charges by the employee.

Imposing major penalty without holding enquiry is a serious flaw.

U.P. Cooperative Bank Ltd. & Ors. vs. P.O., Labour Court & Ors. 2011 LLR 1247 (All. HC)

In enquiry, proof is not required beyond doubt. It is in the realm of probability.

Divisional Controller, Gujarat Sate Road Transport Corporation vs. Mohmad Adammbhai Mushabhai Bhodiya. 2011 (131) FLR 859 (Guj. HC)

Proving charge in the enquiry on the basis of the concept of theory of beyond reasonable doubt is not applicable in domestic enquiry. Dismissal justified of bus conductor for not issuing tickets to passengers.

Hidayatali s/o Mehaboobali Sayed, Chandrapur vs. Maharashtra State Road Transport Corporation through Divisional Controller, Chandrapur. 2011 LLR 521 (Bom. HC)

When dismissal is for misconduct of using abusive language towards superior, some indication of words, language or getures are

necessary to justify the punishment.

U.P. State Road Transport Corporation vs. Sudhir Nigam. 2011 LLR 361 (All. HC)

Enquiry not vitiated for non supplying of list of documents and enquiry report.

Raja Ram vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr. 2011 LLR 1164 (P&H HC)

Disciplinary authority is under obligation to provide an opportunity of hearing to the employee when he choose to differ from the findings of the enquiry officer.

Dandapani Muli vs. P.O., Industrial Tribunal, BBSR & Ors. 2011 LLR 910 (Orissa HC)

When enquiry officer exonerated the employee from charges and disciplinary authority dissented from, workman needs to be provided opportunity of hearing.

Senior Regional Manager vs. C.G.I.T., Jabalpur and Another. 2011 LLR 941 (MP HC)

In the absence of any such plea of bias before EO during enquiry, EO will not be deemed as biased.

Kewal Krishan vs. Presiding Officer, Industrial Tribunal & Anr. 2011 LLR 1011 (Delhi HC)

It is always open for the disciplinary authority to change his view after going through the explanation of the employee submitted after show cause notice.

Subhashchandra Mukherjee vs. Chairman. 2011 LLR 1049 (MP HC)

Permanent withdrawal of pension is appropriate punishment to the person who was found guilty of misappropriation.

Dipak Kumar Lahiri vs. National Insurance Company Ltd. & Ors. 2011 (II) LLN 151 (Cal. HC)

Before imposing penalty to the delinquent, the disciplinary authority has to bear in mind the nature and gravity of charges and whether any financial loss was caused by the delinquent as also his physical disability.

T.R. Raghukumar vs. Union Bank. CLR I 2011 P. 893 (Kar. HC)

Dismissal

Dismissal of the employee even after retirement is not illegal if rules so permit.

State Bank of India vs. Ram Lal Bhaskar & Anr. 2011 LLR 1233 (SC)

Dismissal justified of the employee for removing gold jewellery packet from the bank and also admitting the same.

Canara Bank, Bangalore vs. Sri Devaraju H. 2011 LLR 97 (Karn. HC)

When the enquiry was held to be fair and proper, setting aside dismissal of salesman charged with misconduct of embezzlement of funds not valid.

Beerh Rau Ke Co-Operative Agricultural Services Society Ltd. & Anr. vs. Presiding Officer and Ors. 2011 LLR 40 (P. & H. HC)

Dismissal proper of watchman guilty of insubordination and threatening the security officer.

Dhirendra Bahadur Shahi vs. Empire Industries Ltd., Vikhroli, Mumbai & Ors. 2011 LLR 125 (Bom. HC)

Dismissal proper for abusing and assaulting the co-worker.

Asharfi Lal vs. Management of Delhi Cloth Mills. 2011 LLR 118 (Del. HC)

Dismissal proper for habitual and unauthorized absence.

V. Manoharan vs. The Presiding Officer, Labour Court, Vellore and Another. 2011 LLR 144 (Mad. HC)

Dismissal invalid for single act of absence particularly when the employee (driver) suffered from injuries due to accident.

Managing Director, Tamil Nadu State Transport Corporation (Salem Division II) Ltd., Dhamapuri vs. K.V. Krishnan and Another. 2011 LLR 148 (Mad. HC)

Dismissal of bus conductor justified for the misconduct of misappropriation.

B. Narayanappa vs. Managing Director, K.S.R.T.C., Bangalore and Another. 2011 LLR 412 (Karn. HC)

Even if the victim back tracked stating that he was not assaulted, dismissal of employee charged for assaulting co-workman can't be over looked.

A. Kajendran vs. Presiding Officer, Central Govt. Industrial Tribunal, Cum Labour Court, Chennai & Ors. 2011 LLR 438 (Mad. HC)

Dismissal justified of bus conductor for not issuing tickets to passengers.

Hidayatali s/o Mehaboobali Sayed, Chandrapur vs. Maharashtra State Road Transport Corporation through Divisional Controller, Chandrapur. 2011 LLR 521 (Bom. HC)

Unauthorized absence and going abroad without management permission shows that employee has no interest in the work. Dismissal for the misconduct justified.

M.A. Azim vs. Maharashtra State Road Transport Corporation, through its Works Manager, Central Workshop. 2011-1 LLN 123 (Bom. HC)

When bank employee was dismissed on the basis of his past record and it was not brought to his notice before, such dismissal would be invalid.

Dehi Ram Baruah vs. Regional Manager, UCO Bank (A Govt. of India Undertaking), Guwahati & Ors. 2011 LLR 480 (Gauhati HC)

Dismissal justified for refusal to obey instructions of superior, catching hold of neck of superior, slapping and threatening to see him outside factory.

Raja Ram vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr. 2011 LLR 1164 (P&H HC)

Refusal to report at place of transfer establishes in subordination and unauthorised absence. Termination justified due to this misconduct.

Hindalco Industries Ltd. vs. Suman Lata Tuteja & Ors. 2011 LLR 1197 (Del. HC)

No reinstatement to teachers of the school for the misconduct of openly insulting, humiliating and forcibly entering into principal's bungalow.

Managing Committee, Frank Anthony Public School & Anr. vs. C.S. Clarke & Ors. 2011 LLR 1201 (Del. HC)

Diverting customers to third party causing loss is a dishonest act and loss of confidence is imperative. Dismissal justified for such misconduct.

Abeheraj Jaswal vs. M/s. Godrej Boyce Manufacturing & Ors. 2011 LLR 1210 (Del. HC)

Dismissal not proper on the ground of unauthorised absence when he developed heart disease and was on medical leave.

Phulkumari and Others vs. Bharat Coking Coal Ltd. Dhanbad and Others. 2011(131) FLR 186 (Jhar. HC)

Dismissal justified of driver for misbehaving with passengers using filthy language in drunken state.

A. Chandrappa vs. Management of Bangalore Metropolitan Transport Corporation. 2011 (131) FLR 342 (Karn. HC)

Dismissal justified of a bus conductor found carrying 18 ticketless passengers.

U.P.S.R.T.C. through its Regional Manager, Jhansi vs. Presiding Officer, Labour Court (IV), Kanpur and Another. 2011 LLR 1236 (All. HC)

Dismissal justified for habitual absence.

A. Ganesh Reddy vs. Chief Traffic Manager, B.M.T.C. Central Officers, Bangalore. 2011 LLR 1243 (Karn. HC)

An employee who could not respect his superior can't be permitted to remain in service.

U.P. State Road Transport Corporation Through Regional Manager, Kanpur Nagar vs. Rajendra Singh and Another. 2011 LLR 1257 (All. HC)

Labour court order of modifying the punishment of dismissal into reinstatement by withholding two increments for the misconduct of unauthorized absence of 11 months would be illegal.

Smt. Padma and others vs. Chief Traffic Manager BMTC Central Office, Bangalore. 2011 (131) FLR 914 (Karn. HC)

Dismissal of bus conductor appropriate when found guilty of misappropriation.

K. Murthy vs. 1. The Labour Court, Salem, (2) The Management, Tamil Nadu State Transport Corporation, Salem Division-II, Dharmapuri-5. 2011 LLR 329 (Mad. HC)

Dismissal justified for defamatory aspersions against senior officers without substantiating them during enquiry.

Kewal Krishan vs. Presiding Officer, Industrial Tribunal & Anr. 2011 LLR 1011 (Delhi HC)

Dismissal of union leader justified for shouting and abusing management in filthy language and trying to snatch papers from officers and disrupting production for one and half hours.

Ravindra Sharma vs. Labour Court and Others. 2011 LLR 495 (Uttarakhand HC)

Dismissal justified of pharmacist for stealing drugs by keeping in dickey of his scooter.

Sunil Kumar vs. M/s Telco Ltd. 2011 LLR 611 (Jhar. HC)

Dismissal justified for false undertaking of the workman that there was no criminal trial pending against him.

Anil vs. Assistant Commissioner, Food and Drugs Administration, Jatharpeth, Akola. 2011 LLR 619 (Bom. HC)

Dismissal not justified for misbehaving with the father of managing partner and partner of the firm not connected with day-to-day activity of business, that too outside the premises.

B. Rajagopal vs. Jomy Xavier & Anr. 2011 Lab IC 1131 (Kerala HC)

Dismissal of bus conductor legal when found carrying passengers three times without ticket. It is grave misconduct.

U.P. State Road Transport Corporation, Kanpur Nagar vs. Chandra Prakash Soni and Another. 2011 LLR 923 (Allahabad HC)

Dismissal of bank employee proper for misconduct of misappropriation of funds.

Shrawan Kumar, S/o Sri Ram Autar Prasad, Patna vs. Central Bank of India, through its Chairman-cum-Managing Director & Ors. 2011 LLR 998 (Patna HC)

Dismissal too harsh punishment for the misconduct of retaining key of power house with himself without sanction. Reinstatement with partial back-wages would be appropriate relief.

Managing Director, Shree Panchaganga Sahakari Sakhar Karkhana Ltd., Kolhapur vs. Kallappa Narasappa Sangale and Others. 2011 LLR 822 (Bom. HC)

Employees Compensation Act

If the insured vehicle is not involved in accident, insurance company can't be held liable for compensation.

Mamtaj Bi Bapusab Nadaf vs. United India Insurance Co. & Ors. LLN (2) 2011 P. 19 (SC)

Taking auto on per day rent from the owner will not constitute employer-employee relationship for the purpose of compensation under E.C. Act.

Oriental Insurance Co. Ltd. rep. by its Senior Divisional Manager vs. T. Saramma and Others. 2011 LLR 75 (A.P. HC)

Driver - son of a tractor owned by his father can't be termed as employee under Employees Compensation Act for the purpose of Compensation award.

Oriental Insurance Company vs. Santosh Devi & Anr. 2011 LLR 55 (HP HC)

In a claim for compensation, the amount paid under the Group Insurance Accident Policy will be deducted from the amount of compensation awarded by the Compensation Commissioner.

Ubel Company vs. Jaswinder Kaur and Others. 2011 LLR 72 (P & H. HC)

No relief to the deceased dependents under EC Act when claim was filed after considerable long delay.

United India Insurance Company Ltd. vs. Kadar Harun Changda and Others. 2011 LLR 187 (Guj. HC)

Compensation rightly awarded when the employee died sitting in the vehicle cabin which he used to drive. Such death will be deemed out of and in the course of employment.

M/s. National Insurance Co. Ltd. vs. Zaheeda Banu & Ors. 2011 LLR 178 (Karn. HC)

The insurer has been rightly held liable to pay the compensation to the legal heirs of the deceased workman who died while cutting the trees in an estate insured with the insurer.

The United India Insurance Co. Ltd. vs. Manjunath & Ors. 2011 LLR 180 (Karn. HC)

It would be wrong for the Commissioner to dismiss the compensation claim merely on the ground of the medical report that the deceased driver was alcoholic and there was no evidence that death caused due to alcoholism and smoke.

Smt. Jayalakshmi M. Shetty and Others vs. Ramesh and Another. 2011 LLR 310 (Karn. HC)

Awarding compensation on less salary than the amount admittedly evident on record would be wrong.

(Smt.) Vithabai Bhavsahab Khairnar and Others vs. Subhash Kanhaiyalal Bafna, Dhule and Another. 2011 LLR 385 (Bom. HC)

If the employee was unable to perform the duties which he was doing before the accident, will amount to loss of 100% earning capacity even though the physical disability is 20-25%. Compensation on the basis of 100% loss is appropriate.

National Insurance Company Ltd. vs. Hari Om and Anr. 2011 LLR 428 (Del. HC)

Workman injured in an accident caused by his own negligence cannot claim compensation.

Louis Martis vs. Louis Korrea & Anr. LLJ (1) 2011 P. 342 (Karn. HC)

Loosing right arm in accident is itself a proof of loss in earning capacity, commissioner under W.C. Act should have decided the claim on the basis of submission only.

Narayan Bansilal Vaishnav, Buldhana vs. Champatrao Tryambakrao Deshmukh, (dead through L.Rs.). 2011 LLR 524 (Bom. HC)

Employee is not entitled for grant of medical expenses for the injury caused during employment under EC Act.

New India Assurance Co. Ltd. vs. Viram Vela Rabari and Another. 2011 LLR 484 (Guj. HC)

100% disability for compensation will be presumed when driver of the vehicle has lost his right eye since he will not be able to perform the duties of a driver.

Oriental Insurance Co. Ltd. vs. Shri Diwan Singh and Another. 2011 (129) FLR 78 (Uttarakhand HC)

Being EC Act as social welfare legislation, benefit of doubt about death in course of employment should be allowed and compensation be given.

New India Assurance Co. Ltd., Bangalore vs. Naseem Banu and Others. 2011 LLR 588 (Kar. HC)

Loss of vision in one eye of driver would be treated as permanent total disablement with 100% earning capacity loss.

New India Assurance Co. Ltd. vs. Santhosh. 2011 LLR 748 (Kerala HC)

Sub-Divisional officers are not entitled to act and function as commissioner under Employees Compensation Act as amended from 2010.

National Insurance Co. Ltd. vs. Bhim Singh & Ors. 2011-II CLR 129 (Del. HC)

Diabetes Mellitus is not a diseases in the list of occupational diseases as mentioned in the Schedule to the Employees Compensation Act hence a claim by a workman cannot be allowed by the Commissioner under the Act.

Shipping Corporation of India Ltd. vs. Ratanji Somabhai Tandel. 2011 (129) FLR 926 (Bom. HC)

Insurer of the vehicle has to indemnify the employer with compensation and interest which was paid in an accident caused to the driver while in the employment who was rendered unfit to drive the vehicle.

M/s. National Insurance Co. Ltd. vs. Lakhindra Das and Another. 2011 (129) FLR 845 (Gauhati HC)

Assessment of loss of earning capacity upto 10% without any basis cannot be relied upon.

Oriental Insurance Co. Ltd., Bangalore vs. Shivanna @ Shivananjegowda and Another. 2011(129) FLR 821 (Karnataka HC)

No compensation to deceased family when the death of the operator occurred by falling down from the third floor of the administrative building away from the factory. Such death is not accident under EC Act.

Smt. M. Suvarna W/o Late S. Narayanaswamy & Ors. vs. The Factory Manager, Motor Industries Co. Ltd., Adugodi & Anr. 2011 LLR 804 (Kar. HC)

Employer - owner of the autoriksha will be liable to pay compensation to the dependents of the deceased driver when he knew that driver was not holding a valid driving licence. Insurance company is not liable to pay any compensation in such case.

Faimada Begum vs. Akram Pasha & Anr. 2011 LLR 872 (AP HC)

The law is settled on this aspect that the statutory liability under the Employees Compensation Act is on the employer and unless a separate clause is included for the liability of interest, the Insurance Company is not liable to make payment of interest especially in case where the accident is not related to a motor vehicle accident.

New India Assurance Co. Ltd. vs. Hiralal Gomaji Moriya (Regar) and Others. 2011 (130) FLR 43 (Guj. HC)

In reply to plea of the Insurance Company that notice under Section 10 of the Employees Compensation Act, 1923 was not given, the High Court pointed out Clause (a) of the fourth proviso to Section 10(1) of the Act applied in the case of death of workman occurred in accident while he was working in the premises, and under the control of employer.

New India Assurance Co. Ltd. vs. Smt. Vimla Devi and Others. 2011 (III) LLJ 209 (All. HC)

In an ex-parte proceedings, no evidence of doctor is necessary when commissioner was satisfied with the medical certificate about extent of loss of earning capacity.

Sashin and Company vs. Rupa Uka Sakaria (Deceased) by Heir and Another. 2011 LLR 912 (Guj. HC)

Insurance company will not be liable to pay compensation when the driver died while replacing the electric fuse wire in transformer, not permissible under the electricity rules.

United India Insurance Co. Ltd., Hyderabad vs. Elkachenu kistamma and Ors. 2011 LLR 931(AP HC)

For the purpose of determining compensation, minimum wages is to be taken in to consideration where the employee was paid even less than minimum wages.

Shankar vs. The Chief Engineer, KPTCL, Gulbarga and Others. 2011 LLR 934 (Karn. HC)

Insurance company is not liable to pay compensation for accident while working at crusher, because tractor and trailer were insured by the company and not the crusher.

Branch Manager, National Insurance Co. Ltd., Mandya vs. Ramalingegowda and Another. 2011 LLR 939 (Karn. HC)

Insurance company liable to pay compensation to deceased dependents. Can't escape from liability for want of exact number of workers working at accident place.

Oriental Insurance Company vs. Narpartu and Ors. 2011 LLR 987 (HP HC)

Exorbitant compensation in case of non scheduled injury without appreciating evidence correctly and genuinely by EC commissioner is liable to be quashed.

The New India Assurance Company Ltd. by its Dn. Mang. vs. K. Somashekhar & Anr. 2011 LLR 1043 (Karn. HC)

Death due to heart attack while driving vehicle would amount to accident under EC Act and compensation rightly awarded.

National Insurance Co. Ltd. vs. Sheeja. 2011 LLR 1071 (Kerala HC)

Death of trailer driver due to heart attack out of stress and strain of employment would amount to accident arising out of and in the course of employment. Dependents entitled for compensation.

Commissioner should not reject the claim on mere technical grounds.

Bangaru Koteswaramma & Ors. vs. G. Srinivasa Rao & Anr. 2011 LLR 1105 (AP HC)

For filing an appeal against the order of Employees' Compensation Commissioner, the awarded amount besides the interest to be deposited as a condition precedent.

New India Assurance Company Limited vs. Bijju. 2011 (130) FLR 596 (Kerala HC)

For getting compensation under the E.C. Act the claimant has to establish (1) Personal injury, (2) Accident and (3) That it arose out of and in the course of employment.

Pratap vs. Panipat Co-op. Sugar Mills Ltd. & Anr. FLR (130) 2011 P. 476 (P&H HC)

Where there is no medical evidence that the death of the driver was due to his consuming alcohol, claim for compensation cannot be denied.

Jayalakshmi M. Shetty & Ors. vs. Ramesh & Anr. LLJ (III) 2011 P. 108 (Karn. HC)

Workman has to choose one remedy for his compensation - either to file petition under EC Act or a civil suit for recovery of damages. He can't have both the options.

Jairam s/o Hindusingh Balai vs. Jaswant Singh alias Fakirchand s/o Sukharam and Ors. 2011 LLR 1050 (MP HC)

Death due to quarrel with co-worker while on duty will amount to accident arising out of and in the course of employment.

Union of India Through General Manager, Northern Railway and Another vs. Ifzal Hussain and Another. 2011 LLR 200 (All. HC)

Death can't be said to be occurred during the course of employment as employment injury when the driver died as a result of altercation and fist fight with another auto driver when vehicles of both dashed with each other.

New India Assurance Company Limited, rep. by its Divisional Manager vs. Noorjahan Begum and 8 Others. 2011 LLR 1221 (AP HC)

A Fireman of U.P. Government fire department will not be covered under the Workmen's Compensation Act hence the commissioner has erred in allowing the claim for accident compensation.

State of U.P. and Others vs. Deputy Labour Commissioner (Prescribed Authority), Azamgarh and Another. 2011 (130) FLR 881 (All. HC)

When husband is the driver and his wife is the owner of the autorikshaw, there would be no master-servant relationship for the purpose of getting claim under E.C. Act.

Prapulla Chandra Satyanarayana vs. Prapulla Chandra Appalakonda and Another. 2011 LLR 1245 (AP HC)

Employees Provident Fund

Two establishments rightly clubbed under EPF Act when both were having functional and financial integrality and directors of both from the same family, MD, technical and commercial manager common, employees of both were being swapped and both registered at same address with same telephone numbers.

M/s. L.N. Gadodia & Sons & Anr. vs. Regional Provident Fund Commissioner. 2011 LLR 1124 (SC)

Once paying EPF contribution on salary more than prescribed limit by the employer, he can reduce his contribution to Rs. 6,500. Sec. 12 of the EPF Act will not be a bar nor sec. 9A of the ID Act will operate in negative.

Marathwada Gramin Bank Karamchari Sanghatana and Another vs. Management of Marathwada Gramin Bank and Others. 2011 LLR 1130 (SC)

Even though there is no limitation for EPF authorities to issue notice for damages, time has to be reasonable. Period of 7-8 years for issuing notice can't be termed as reasonable and was liable to be quashed.

I.O.L. Limited vs. Union of India and Ors. 2011 LLR 100 (All. HC)

Amount paid to C & F Agent as ex-gratia and commission can't be treated as wages for the purpose of EPF. C & F Agent are not the employees of the company.

The Assistant Provident Fund Commissioner, Nagpur vs. M/s. Leben Laboratories Pvt. Ltd., Akola. 2011 LLR 27 (Bom. HC) ; 2011(II) LLJ 468

When the establishment produces the record about labour wages, it will be illegal for the EPF authorities to assess the labour cost as 25% lump-sum on machine maintenance and loading-unloading bills.

Vikas Electricals, Jabalpur vs. Assistant Provident Fund Commissioner, Jabalpur. 2011 LLR 3 (MP HC)

No writ is maintainable against PF authorities order when remedy of appeal before tribunal is not exhausted.

Lakshmi Metal Industries, Tirunelveli vs. Assistant Provident Fund Commissioner, Tirunelveli & Ors. 2011 LLR 152 (Mad. HC)

Special Allowance given to confirmed employees arising out of settlement is not basic wage or deemed part of deemed DA to attract PF contribution.

Gordon Woodroffe Ltd., Madras vs. RPFC Madras, 2011 LLR 29 (Madras HC)

No PF dues can be demanded when Factory closed down with due process of law and EPF was informed.

Bomin Pvt. Ltd. vs. Assistant Provident Fund Commissioner 2011 I CLR 523 (Guj. HC)

EPF Appellate Tribunal is also empowered to reduce or waive the damages levied by Employees' Provident Fund Authority.

Regional Provident Fund Commissioner, Sub-Regional Office, Nagpur vs. Manoharbhair Ambalal, Gondia. 2011 LLR 332 (Bom. HC)

Damages under sec. 14B of EPF Act will not be legal if there remains no default or arrears on the date when the damages are levied.

Hi-Tech Vocational Training Centre vs. Assistant Provident Fund Commissioner. 2011 LLR 231 (Del. HC)

Accountant and goldsmiths not paid regular wages will not be considered as employee under EPF Act.

Assistant Provident Fund Commissioner, Ranchi vs. Sushil Kumar Gupta. 2011 LLR 305: 2011 (128) FLR 718 (Jharkhand HC)

EPF appellate tribunal must give reasons in a speaking order for dispensing with the compliance of sec. 7-O.

Assistant Provident Fund Commissioner, Karnal vs. Employees' Provident Fund Appellate Tribunal and Another. 2011 LLR 235 (P&H HC)

While deciding about exemption under sec. 17 of EPF Act, authorities have to test the application whether proposals offered better than of EPF Scheme.

H.C. Gupta, Assistant General Manager (Retd.) and Others vs. Punjab State Co-operative Bank Limited and Others. 2011 LLR 302 (P&H HC)

Employer can split the minimum wages into various allowances for the purpose of determining their liability under EPF Act.

Asstt. Provident Fund Commissioner, Gurgaon vs. M/s. G4S Security Services (India) Ltd. and Another. 2011 LLR 316 (P&H HC)

If the employer is aggrieved by the order of the provident fund authority, should appeal before the EPF Appellate Tribunal and not the writ petition is to be filed.

State Infrastructure and Industrial Development Corporation of Uttarakhand Ltd., Dehradun vs. Regional Provident Fund Commissioner, Dehradun and Others. 2011 LLR 308 (Uttarakhand HC)

In the absence of any speaking order by appellate tribunal under EPF Act, dismissal of appeal challenging levy of damages would be unreasonable. HC restored the appeal.

Cable Corporation of India Ltd. vs. Union of India & Anr. 2011 LLR 380 (Bom. HC)

Unloaders employed temporarily cannot be treated as regular for the purpose of coverage of establishment under EPF Act 1952.

Saroj Oil & Dal Industries vs. Central Board of Trustees Through CPF Commissioner and another. 2011 (128) FLR 984 (Del. HC)

Rejection of objections filed by employer because limitation Act did not apply, is illegal. RPFC directed to hear the matter afresh under sec. 7A of EPF Act.

Fouzdar Farm Equipments, Satna vs. Regional Provident Fund Commissioner, Jabalpur & Another. 2011 LLR 373 (MP HC)

Before recovery of any dues under EPF Act, authority needs to provide opportunity of hearing to the employer.

U.A. Transport Corporation vs. Employees' Provident Fund Organisation. 2011 LLR 418 (Uttarakhand HC)

Two hotels of the same company having no financial integrality with separate establishments are not to be clubbed together for the purpose of EPF.

PIEM Hotels Limited & Anr. vs. Regional Provident Fund Commissioner. 2011 LLR 526 (Bom. HC)

When old employees are absorbed by the new employer on purchase of old unit, EPF Act will continue to apply.

Jessore Industries (India) Limited & Anr. vs. The Regional Provident Fund Commissioner, West Bengal & Nicobar Island & Ors. 2011 (I) LLN 772 (Cal. HC)

Canteen subsidy pursuant to settlement does not attract PF contribution and can't be part of D.A.

Indian Petrochemicals Corporation Ltd. vs. Regional Provident Fund Commissioner & Another. 2011 LLR 460 (Guj. HC); 2011 LLR 717 (Guj. HC); 2011 I CLR 533 (Guj.)

Transport allowance, washing allowance, attendance incentive and special allowance paid to all employees except HRA and lunch allowance will form part of 'basic wages' and will attract PF contribution.

Surya Roshni Ltd. vs. Employees' provident Fund and Another. 2011 LLR 568 (M.P. HC)

Merely working of part time accountant in two different establishments will not be sufficient to club both into one for PF coverage when partners and employees were different.

M/s Paramount Leathers vs. Regional Provident Fund Commissioner and Another. 2011 LLR 597 (Cal. HC)

Recovery officer cannot recover the PF amount determined under section 7A till expiry of 60 days of appeal.

Mahindra Gears and Transmission Pvt. Ltd. vs. Assistant Provident Fund Commissioner, Employees' Provident Fund. 2011 LLR 602 (Guj. HC)

More than 50% workers engaged under the guise of "apprentices" and paying them salary, allowances and bonus instead of stipend will not be excluded from provisions of the EPF Act.

Sree Mangayarkarasi Mills (P) Ltd., Madurai Distt. vs. 1. The Assistant Provident Fund Commissioner, Madurai, 2. The Presiding Officer, EPF Appellate Tribunal, New Delhi. 2011 LLR 604 (Madras HC)

EPF Appellate Tribunal is under obligation to consider the submissions made and grounds raised in the appeal by the employer. Failure to do so will render the order illegal.

M/s BSBK Pvt. Ltd. vs. Employees' Provident Fund Appellate Tribunal, New Delhi & Anr. 2011 LLR 610 (Chattisgarh HC)

EPF Authorities were lawful in rejecting the exemption application of the bank when required documents and records were not produced.

Bihar State Co-operative Land Development Bank Limited, Bihar and Jharkhand, Budh Marg, P.S. Kotwali, District-Patna Through its Managing Director and Another vs. Union of India through its Secretary, Ministry of Labour and Employment, New Delhi and Others. 2011 LLR 624 (Patna HC)

Writ not maintainable against order passed by EPF authorities under section 7A. Whether a person is an apprentice under standing orders has to be decided on the basis of evidence by appellate tribunal.

Tirupati Jute Industries Limited & Anr. vs. Employees' Provident Fund Organisation & Ors. 2011 LLR 657 (Cal. HC)

Before rejecting application of exemption under EPF Act, authorities are under obligation to provide hearing opportunity to the school management.

Satyabrata Chakraborti vs. Union of India and Others. 2011 (129) FLR 315 (Cal. HC)

Order of EPF Authority under section 7-A, if reversed by appellate tribunal in appeal, cannot be challenged in high court by EPF Authority.

Asstt. Provident Fund Commissioner, Goa vs. Nirmitee Holidays (P) Ltd., Pune. 2011-II LLJ 469 (Bom. HC) ; 2011 LLR 28 (Bom. HC)

Assembling of parts of gun in the factory will be a manufacturing process within sec. 2(m) of Factories Act and the unit would be covered under EPF Act.

M/s Lowtan and Co. vs. Presiding Officer, Employees' Provident Funds Appellate Tribunal, New Delhi and Another. 2011 LLR 807 (Patna HC)

Ex-parte order passed against employer by EPF authorities which was communicated to him after seven months is not proper. High Court ordered EPF authorities to hear afresh the employer and communicate fresh order.

M/s. Nityanand Restaurant & Bar vs. The Regional Provident Fund Commissioner & Ors. 2011 LLR 851 (Bom. HC)

When the reference under section 17 of SICA before BIFR was pending against the petitioner-Company, the P.F. Authorities cannot take recourse to any coercive steps during pendency of such reference.

M/s. R.S.I. Ltd. & Anr. vs. Employees' Provident Fund Organisation & Ors. 2011 LLR 852 (Cal. HC)

Employer purchasing the machines from the closed establishment after taking full and final payments by workers and setting up the machines at different place will not be a continuing business under EPF Act and PF authorities can't order new employer for payment of EPF contributions of past period.

Management of Lingam Press, Coimbatore vs. Presiding Officer, Employees' Provident Fund Appellate Tribunal & Anr. 2011 LLR 863 (Mad. HC)

Special allowance & Conveyance paid to all workers universally, necessarily and ordinarily will be part of basic wages for the purpose of PF contributions.

Montage Enterprises Pvt. Ltd. vs. Employees' Provident Fund, Indore & Another. 2011 LLR 867 (MP HC)

Conveyance Allowance, Education Allowance, Special Allowances, Food Concessions, Medical Allowance, Special Holidays, Night Shift Incentive and City Compensatory Allowance will be deemed as basic wages for the purpose of PF contributions under the EPF Act.

The Management of Reynolds Pens India Pvt. Ltd., Kancheepuram and Others vs. The Regional Provident Fund Commissioner-II, Chennai. 2011 LLR 876 (Mad. HC)

Person treated as employee for payment of bonus would come within the ambit of employee as defined by E.P. F. Act.

Sree Mangayarkarasi Mills (P) Ltd. vs. The Asstt. Provident Fund Commissioner. LLN (2) 2011 P. 304 (Mad. HC)

Division bench also upheld the order of single judge declaring spitting of minimum wages in to basic and allowances as legal for PF purpose.

Assistant Provident Fund Commissioner vs. M/s. G4S Security Services (India) Ltd. & Another. 2011 LLR 943 (P&H HC)

When interim relaxation from the provisions of the EPF Act was granted by PF commissioner, withdrawal of such relaxation during exemption can't be enforced. Court converted such order in to show cause notice.

Religare Enterprises Ltd. vs. Labour Secretary & Ors. 2011 LLR 950 (Delhi HC)

When contractor agency was paid as "karigar charges" after deducting TDS for specialised work of embroidery and printing, such amount will not attract PF contribution.

When the status of person as employee is to be determined, it should be seen whether such person has an obligation to report for duty next day.

The Regional Provident Fund Commissioner, Mumbai vs. M/s. Syndicate Overseas Pvt. Ltd. 2011 LLR 953 (Bom. HC)

Junior telecom officers or junior account officers can't be excluded from EPF coverage for the period of their pre induction training, specifically when their such period was termed as 'duty' in the rule book and gratuity was also applicable for such period.

Bharat Sanchar Nigam Ltd., Chennai vs. Union of India and Others. 2011 LLR 959 (Mad. HC)

Company providing financial services would be covered under the EPF Act and agents getting commission would be treated as employees.

Focussed Corporate Services (India) Pvt. Ltd., Coimbatore vs. Union of India, Ministry of Labour and Employment, New Delhi & Ors. 2011 LLR 989 (Mad. HC)

Provisions of EPF Act do not prohibit the authorities to proceed for recovery of amount even during the period of appeal provided to the employer.

Employees' Provident Fund Organisation vs. Rollwell Forge Ltd. & I. 2011 LLR 1006 (Guj. HC)

It is for the employer and not the EPF authorities to prove the strength of employees, employed by him against the report of PF authority.

J.K. College of Nursing & Paramedicals vs. Union of India & Ors. 2011 LLR 1013 (Delhi HC)

Condition of deposit the amount before filing appeal under EPF Act, can't be substituted by bank guarantee.

Socrus Pharmaceutical Limited vs. Assistant Provident Fund Commissioner. 2011 LLR 1018 (Delhi HC)

The financial corporation and not the new owner to whom the unit was sold, would be liable to pay PF arrears amount to PF department. Sec. 17B of EPF Act will not be applicable in such case.

Alico Rubber Reclamation (Private) Limited vs. Employees' Provident Fund Organisation and Anr. 2011 LLR 1032 (HP HC)

Passing order by EPF tribunal declaring ex-parte on the same day ignoring the application of the employer requesting for adjournment on which employer was intimated about next date of hearing, would be illegal and liable to be quashed.

Nocil Limited (Erstwhile National Organic Chemical Industries Ltd.) vs. The Regional Provident Fund Commissioner-II & Another. 2011 LLR 1052 (Bom. HC)

The organization engaged in the activities of the inspection, sampling, analysis and survey work in the field of ores, minerals & chemicals can't fall in the schedule head of 'engineers and engineering contractors' under EPF Act.

Regional Provident Fund Commissioner; W.B. & Anr. vs. Superintendence Co. of India Pvt. Ltd. 2011 LLR 1067 (Cal. HC)

When subsequent purchaser purchased business by way of sale and continued same business, Sec. 17B of EPF Act will apply and new owner will be liable to pay PF contribution of earlier period if any.

A.L. Subramanian vs. Employees' Provident Fund Appellate Tribunal, New Delhi & Ors. 2011 LLR 1074 (Mad. HC)

No writ lies against the order of EPF authorities under Sec. 7A. Employer has to file an appeal before tribunal.

Bharat Polychem Ltd. vs. Regional Provident Fund Commissioner & Anr. 2011 LLR 1082 (Delhi HC)

Order of EPF authorities under sec. 7A & 7B, if made without making compliance of principles of natural justice, is liable to be set aside.

MGM New Bombay Hospital, Vashi vs. Regional Provident Fund Commissioner & Ors. 2011 LLR 1117 (Bom. HC)

EPF tribunal was duty bound to enquire from the employer counsel for fixation of hearing outside Delhi. Any such ex-parte order passed at camp hearing by tribunal against employer would be illegal.

B. Mansukhlal and Company vs. Employees' Provident Fund Organisation and Ors. 2011 LLR 240 (Del. HC)

PF appellate tribunal order without hearing the employer will be invalid.

Shiv Herbal Research Laboratory Ltd., Nagpur vs. Asstt. Provident Fund Commissioner; Nagpur & Anr. 2011 LLR 1146 (Bom. HC)

Govt. Notification about coverage of establishment under EPF Act can also be challenged before appellate tribunal.

Asahai Infrastructure and projects Ltd., Akola vs. Asstt. Provident Funds Commissioner; Akola. 2011 LLR 1148 (Bom. HC)

Order for imposing damages and interest under sec. 7A of EPF Act without considering various factors of frequency of delay and default, amount etc. is liable to be set aside.

Damien Foundation India Trust, rep. by Mr. L. Camillus Rajkumar, Chennai vs. Presiding Officer; Employees' Provident Fund Appellate Tribunal, Coimbatore & Anr. 2011 LLR 1156 (Mad. HC)

EPF authority before passing any order of PF contribution determination amount, has to ensure that notice on the person/establishment on whom liability is proposed to be is fixed, is served and opportunity of hearing is provided. Contractor society being exempted from EPF Act not liable to pay contribution.

Pathankot Janta Cooperative Labour & Construction Society Ltd. and Anr. vs. State of Punjab through Secretary, Irrigation, Punjab, Chandigarh & Ors. 2011 LLR 1162 (P&H HC)

In the absence of any provision about depositing the assessed amount or part thereof under sec. 7-C of EPF Act, appellate tribunal can't make it a pre-condition to hear the appeal. Such order is liable to be set aside.

Writer Safeguard Private Limited vs. Regional Provident Fund Commissioner-II and Assessing Officer & Others. 2011 LLR 1193 (Bom. HC)

Employees pension scheme under EPF Act is a contributory pension scheme, the employee is bound by the terms of the Scheme and he cannot escape his liability to make out the amount payable by pointing out the alleged lapse of the employer.

C. Govindasamy vs. Regional Provident Fund Commissioner, Chennai and Others. 2011(130)FLR 843 (Mad. HC)

A transferee of an establishment cannot escape the liability of the provident fund dues which were payable by the transferor whereas the liability would be restricted to the value of assets as obtained on transfer.

Mrs. Radhamani vs. Enforcement Officer, Kollam and Others. 2011 Lab. IC 2965 (Kerala HC)

Failure on the part of Tribunal to assign reasons to differ from the view taken by Assistant Provident Fund Commissioner to allow the appeal, as rightly contended, has occasioned denial of justice to the petitioner and matter remanded back for reconsideration.

Assistant Provident Fund Commissioner, Bangalore vs. Chinmaya Mission Hospital, Bangalore. 2011(131) FLR 159 (Karn. HC)

PF authorities can't impose interest under sec. 7Q over and above the rate given.

Jyoti Cements (P) Limited and Others vs. P.F. Commissioner and Others. 2011 (131) FLR 557 (Raj. HC)

EPF authority can't claim contributions for the period for which workman neither worked nor agreed to be treated on duty.

Universal Brakes (P) Ltd., Coimbatore vs. Presiding Officer, Employees' Provident Fund Appellate Tribunal and Ors. 2011 III CLR 662 (Mad. HC)

Civil suit is not maintainable under EPF Act as the same has its own special provisions of appeal before appellate authority.

Regional Provident Fund Commissioner vs. Dr. O.P. Mittal and Another. 2011 LLR 1254 (P&H HC)

When apprentices are paid wages, salaries and bonus, they are employees under EPF Act.

Sree Mangayarkarasi Mills (P) Ltd. rep. by its Director vs. Assistant Provident Fund Commissioner, E.P.F. Organization, Regional Office and another. 2011 (129) FLR 117

Recovery of PF dues determined under 7A of EPF Act not permissible when unit is closed.

Bomin Private Ltd. vs. Assistant Provident Fund Commissioner. 2011 (128) FLR 1092 (Guj. HC)

Employment Exchange (CNV) Act

There is nothing in the Employment Exchange (CNV) Act which obligates the employer to appoint only those who are sponsored by Employment Exchange.

Union of India and others vs. Ms. Pritilata Nanda. 2011 (128) FLR 838 (S.C.)

It is essential for the public sector establishments to notify every vacancy under employment exchanges (CNV) Act 1959.

Thota Srinivasa Rao vs. Director, Telugu Academy, Hyderabad and Another. 2011 LLR 138 (A.P. HC)

E.S.I.

Definition of factory covers "shop", and there being more than 20 persons, ESI coverage is valid.

Anant Raj Agencies Pvt. Ltd. vs. Regional Director, ESI Corporation & Anr. 2011 I CLR 120 (Del. HC)

Doing loading and unloading of cargo outside the premises of employer will come under 'shop' for ESI purpose. ESI applicable.

Employees' State Insurance Corporation vs. Sea Hawk Cargo Carriers Pvt. Ltd. 2011 (128) FLR 82 (Del. HC)

Even if blending and packing of tea in continuation to manufacturing process in plantation is done whole the year, would amount to seasonal factory and will be out of ESI coverage.

Hindustan Lever Ltd. Kirumampakkam, Pondicherry vs. Deputy Director, Regional Office (Pondicherry) Employees, State Insurance Corporation, Pondicherry and others. 2011 (128) FLR 108 (Mad. HC)

The establishment providing professional services about machine tools and equipments to industries rightly covered under ESI as "shop".

Machine Tools (India) Ltd., vs. Employees' State Insurance Corporation. 2011 LLR 121 (Del. HC)

Providing services of sale and purchase of immovables will be termed as shop under Delhi Shops Act making the establishment coverable under ESI Act

Anant Raj Agencies Pvt. Ltd. vs. Regional Director, ESI Corporation & Anr. 2011 LLR 204 (Del. HC)

ESI Act not applicable on Nagar Palika/Parishad employees.

Nagar palika, Haridwar vs. Employees' state Insurance Corporation and others. 2011 (128) FLR 331 (Uttarakhand HC)

Proceedings under section 45A and under section 75 of the Employees' State Insurance Act are distinct and no period of limitation for recovering arrears under section 45A of the Act is applicable.

Deputy Director, Employees' State Insurance Corporation, Hyderabad vs. CMC Ltd. (A Govt.

of India Enterprise), Rep. by its Senior Executive, Legal & I.R. Sri A.M. Rao. 2011 LLR 247 (AP HC)

When the master servant relationship was not denied before the Labour Inspectors by the employer, absence of employee name in the ESI record will not be sufficient to prove that employee was not employed by the employer.

Vivek Metal Industries vs. P.O., L.C & Ors. 2011 LLR 239 (Del. HC)

Production incentive paid by the company to its employees would be part of "wages". E.S.I. contribution would be payable in respect of the same. Impugned order passed by E.S.I. Court set aside.

E.S.I. Corporation vs. Traco Cable Co. Ltd. 2011(128) FLR 656 (Kerala HC)

For recovery of ESI dues, the personal property of a former Director of a Company cannot be attached.

Rani K. Lulla vs. Employees' State Insurance Corporation, Chennai. 2011 LLR 289 (Mad. HC)

Clubbing of employees working in sales office and manufacturing unit for coverage under ESI is proper.

E.S.I. Corporation vs. Vijay Grover. 2011 (129) FLR 102 (Del. HC) ; 2011 LLR 499 (Del. HC)

Director / Managing Director receiving salary less than the prescribed under ESI Act will come within the definition of employee under the Act.

Employees' State Insurance Corporation through its Regional Director vs. Padma Bhawan Engineers (P) Ltd. and Others. 2011 LLR 433 (P&H HC)

Non profit making organization is not entitled to waiver of condition of 50% deposit of the amount directed by EI Court.

Sulabh International Social Service Organisation vs. Employees' State Insurance Corporation and Anr. 2011 LLR 435 (P&H HC)

For admitting the appeal against ESI demand, 25% instead of 50% deposit by employer would be proper because there is no ESI hospital near the workplace.

M/s. Bihar Industrial Corporation vs. State of Jharkhand and Others. 2011 LLR 485 (Jharkhand HC)

Recovery of ESI dues under section-45A of ESI Act not maintainable when raised after 5 years.

M/s. Madhav Retreads vs. Employees' State Insurance Corporation and Others. 2011 LLR 492 (Jharkhand HC)

Sick company cannot stall ESI recovery dues merely because it was sick under BIFR.

A&F Overseas Trade Limited vs. Regional Director, Employees' State Insurance Corporation & Anr. 2011 LLR 451 (Mad. HC)

Pendency of BIFR proceedings cannot prevent ESI authorities from enforcing the provisions of the Act. Employer cannot escape from interest on delayed payments. But damages can be waived or reduced.

M.M. Rubber Company Ltd. vs. Deputy Director, Employees' State Insurance Corporation & Ors. 2011 LLR 454 (Mad. HC)

Giving 7 days notice instead of 15 for recovery of ESI dues by the authorities would be illegal under sec. 45G.

M/s. G.R. Thangamalgai Jewellers vs. M/s. Employees' State Insurance Corporation & Anr. 2011 LLR 545 (Mad. HC)

Writ petition against show cause notice issued by ESI authorities under Sec. 75 & 45 A of ESI Act not maintainable. Employer is under obligation to reply show cause notice.

Alagappa Spinning Mills Pvt. Ltd. Represented by its Personnel Officer, Rajapalayam, Virudhunagar vs. Employees' State Insurance Corporation. 2011 LLR 573 (Madras HC)

Principles of limitation are not applicable on recovery of interest amount on delayed payment of ESI contributions.

Essma Woollen Mills Pvt. Ltd. vs. Employees' State Insurance Corporation and Anr. 2011 LLR 650 (P&H HC)

Prosecution against employer under ESI beyond limitation period of 6 months will not be maintainable.

E.S.I. Corporation vs. Brajakishore Panigrahi and Another. 2011 (129) FLR 347 (Orissa HC)

An order by Employees' Insurance Court rejecting plea for waiver of deposit of 50% amount due (under section 75(2-B) of ESI Act, 1948) is not appealable since no substantial question of law has arisen.

JCT Electronics Ltd. Mohali through its Vice President vs. Employee's State Insurance Corporation, New Delhi and Others. 2011-II LLJ 3803 (P&H HC)

The ESI Act has not provided for an appeal against an award declining to impose interest and/or penalty.

Shankarji Kaluji Thakur vs. Chabindas Babulal Jain. LLN (1) 2011 P. 472 (Guj. HC)

Schools fall within the ambit of establishments as provided in section 1(5) of the ESI Act.

Private Schools Co-ordination Committee vs. State & Ors. LIC 2011 P. 997 (J&K HC)

Architectural / Engineering consultancy organization will be 'shop' for the purpose of coverage under ESI Act.

Consulting Engineering Services (I) Pvt. Ltd. vs. Chairman, ESI Corporation & Ors. 2011 LLR 687 (Del. HC)

When employees of two units working in the same premises having functional integrality with common electricity connection, both the units will be treated one for the coverage under ESI Act.

Regional Director, Employees' State Insurance Corporation Ltd., Chennai vs. M/s. Ambika Offset. 2011 LLR 726 (Mad. HC)

Conveyance allowance will not attract ESI contribution.

M/s Asian Paints (India) Ltd. (Now known as Asian Paints Ltd.) vs. The Employees' State Insurance Corporation & Anr. 2011 LLR 776 (AP HC)

"Minority" institutions having constitutional protection to administer the institution in their own manner, signify an identifiable group of people or community, who are seen as deserving protection from likely deprivation of their religious, cultural and educational rights by majority communities and likely to gain political power in a democratic form of government based on election hence coverage of educational institutions by clubbing them with others will not be legal and their coverage under ESI Act is liable to be set aside.

Salesian Province of Kolkata (Northern India), represented by its Secretary, Father Mananchira Chacko Matthew vs. State of West Bengal & Ors. 2011-II CLR 666 (Cal. HC)

When there were only eight employees and such attendance register was also scrutinized by the ESI inspector, no amount of contribution can be determined against such employer, specifically when the establishment was not liable to covered.

Syndicate Printers by its Proprietor, V. Chockalingam, Contract of Insurance-14 vs. The Regional Director, ESI Corporation, 143 Sterling Road, Contract of Insurance-34. 2011 LLR 963 (Mad.HC)

Travelling allowance is not wages for the purpose of ESI.

Conveyance allowance is synonymous to travelling allowance.

Sirpur Paper Mills Ltd. vs. Employees' State Insurance Corporation, Hyderabad. 2011 III CLR 121 (AP HC); 2011 LLR 1174

Order threatening coercive action for failure to pay ESI contribution cannot be challenged on the ground that the company had become sick or that the demand for interest was unjustified.

M.M. Rubber Co. Ltd. vs. Dy. Director, Employees State Insurance Corpn., Chennai. LLJ (III) 2011 P. 322 (Mad. HC)

Waiver of deposit of 50% of the amount as challenged in a petition under section 75 of the ESI Act rightly denied since no extraordinary circumstances have been made out from the petitioner.

M/s. Aakavi Spinning Mills Pvt. Ltd., Melasubrayapuram vs. Employees' State Insurance Corporation, Pondicherry. 2011 Lab. IC 3098 (Mad. HC)

Notifications relating to increase in wage limit under ESI Act do not violates Article 21 of Constitution.

Elgi Equipments Workers & Staff Union, Coimbatore vs. Union of India and Others. 2011(4) LLN 305 (Mad. HC)

No damages for late deposit without serving show cause notice.

A.K. Industries, Rohtak through its Authorised Signatory D. Mukherjee vs. Employees' State Insurance Corporation through its Regional Director, Faridabad and Ors. 2011 LLR 1248 (P&H HC)

In the absence of having any medical facility for treatment of heart ailment by ESIC, expenses incurred for treatment is a private hospital by the employee who died,

his legal heirs will be entitled for reimbursement of expenditure from ESIC.

Regional Director, E.S.I. Corporation, Bangalore vs. Smt. Lakshmi Biradar and Others. 2011 LLR 1271 (Karn. HC)

Managing Director or Director of a company can't be treated as an employee under the Act.

Regional Director, E.S.I. v. Sri Vasavi Cold Storage Pvt. Ltd. LLN (3) 2010 P. 438 (A.P. HC)

Merely using deep freezer by a hotel employing 11 employees will not make him coverable under ESI with in the definition of factory.

Arif (Mohd.) vs. Employees' State Insurance Corp. 2011 LLR 91 (Del. HC)

The payment towards production incentive paid to the employees within a span of two months will be deemed as 'wages' for ESI contributions.

E.S.I. Corporation vs. Traco Cable Co. Ltd. 2010(4) KLT 892 (Kerala HC)

Equal Remuneration

When an establishment is not an 'industry' under ID Act, Contract Labour Act will not apply but Equal Remuneration Act will be applicable on such establishment.

Leelaben Parmer and Others vs. Physical Research Laboratory and Another: 2011 LLR 813 (Guj. HC)

Criminal complaint under equal remuneration act against MD and CRM of IRCTC Limited (Railway catering) not responsible for conduct of business of the company is liable to be quashed

P.K. Goel And Another vs. Labour Enforcement Officer (Central)-I, Bangalore. 2011 LLR 410 (Karn. HC)

EQUAL Work-Equal WAGES

There can't be any prohibition on the employer to have different grade of posts in its different units. Court should avoid application of principle of Equal Pay for Equal Work.

Steel Authority of India Ltd. & Ors. vs. Dibyendue Bhattacharya. 2011 I CLR 602 (S.C.)

Merely because casually employed workmen are performing the same task as

of regularly employed workmen- can't it self constitute a legal justification for equal pay for equal work.

Air India Ltd. vs. Presiding Officer, CGIT & Anr. 2011 LLR 951 (Delhi HC)

Principle of equal pay for equal work will not be applicable even when the workmen appointed on casual basis are performing the same duties.

Air India Ltd. vs. Presiding Officer, CGIT & Anr. 2011 LLR 1080 (Delhi HC)

The demand of equal pay for equal work not justified on the basis of industry cum region formula. When two units of the industry are situated in different parts of the country, equal pay can't be given to employees of both the units.

Workmen represented by Hyderabad Asbestos Cement Products Limited vs. Management of M/s Hyderabad Industries Ltd. 2011 LLR 1269 (Jharkhand HC)

Daily wage not holding any post is not entitled to invoke the doctrine of 'equal pay for equal work'.

Hindustan Salts Ltd. vs. Drang Salt Mine Labour Union and Another. 2011 LLR 402 (HP HC)

A railway porter working on a platform, required to work for railways sometime in handling parcels and luggage in the custody of railways, cannot be treated at par with the casual labourers for payment of wages.

South Eastern Railway, Adra Division, Adra vs. Regional Labour Commissioner, Central, Dhanbad-Cum-Authority Under the Minimum Wages Act and Another. 2011 (128) FLR 862 (Jharkhand HC)

Factories Act

Unless an establishment is covered under the Factories Act, the prosecution launched against owners of the establishment engaged in courier service will be illegal.

The Management of DHL Express (I) Pvt. Ltd. vs. Assistant Inspector of Factories-III, O/o Inspector of Factories, Chennai. 2011 LLR 292 (Mad. HC)

Cognizance of offence u/s. 92 of Factories Act can not be taken if the complaint is filed beyond the period of six months.

Soumendu Biswas & Anr. vs. State of Jharkhand. 2011 LLJ II P. 166 (Jhar. HC)

No other person than occupier and factory manager be summoned and prosecuted.

Qimat Rai Gupta & Ors. vs. State of H.P. & Anr. 2011 LLR 945 (HP HC)

Prosecution filed by Factory Inspector beyond limitation period of three months is liable to be rejected.

Soumendu Biswas @ S. Biswas and Another vs. State of Jharkhand. 2011 LLR 50 (Jharkhand HC)

Fixing of work hours, provided they do not violate any statutory provision, are management functions and courts should not interfere with such function.

Transport And Dock Workers Union and others vs. Mumbai Port Trust and another. 2010(127) FLR 1095

Statutory duty of occupier to ensure safety and welfare to worker can not be shifted to any one.

S. J. Ghandy and another vs. State of Jharkhand and others. 2010 (127) FLR 1005 (Jharkhand HC)

Fixed term appointment

No reinstatement with consequential benefits to a person employed for a fixed term of service.

U.P. State Textile Corpn. Ltd. vs. Suresh Kumar. 2011 LLR 637 (S.C.)

Fixed term appointment commencing to an end automatically on the completion of the period, will not amount to retrenchment.

Smt. Manjeet Arora (Kataria) vs. Presiding Officer, Central Government Industrial Tribunal-Cum-Labour Court, Lucknow. 2011 LLR 509 (Uttarakhand HC)

Keeping employees on fixed term appointment for a long period by renewing their contract from time-to-time will not fall within the mischief of section 2(oo)(bb) of I.D. Act.

Keru Kisan Rokade vs. Geoffrey Manners & Co. Ltd., Nasik. 2011-II LLJ 408 (Bom. HC)

Ad hoc appointment of three months continued with repeated artificial breaks, thereby completing 240 days of service by employee, his termination will not attract 2(oo)(bb) of ID Act and will amount to retrenchment.

Rakesh Kumar and Ors. vs. Management of Bhagini Nivedita College. 2011 LLR 1143 (Delhi HC)

Reinstatement of a trainee initially appointed for six months, subsequently extended and relieved after completion of training will be illegal being covered under sec. 2(oo)(b) of the ID Act.

Chairman / Manager vs. Umesh Kumar Radheshyam Brahmhatt. 2011 LLR 161 (Guj. HC)

No reinstatement for the employee engaged on contractual basis whose contract was not renewed.

Jawaharlal Nehru University vs. Sh. D.K. Pandey. 2011 LLR 10 (Cal. HC)

Termination of employee on contract will not be entitled for reinstatement.

Indravadan N. Adhvaryu vs. Laxminarayan Dev Trust (through Chief Executive Kothari). 2011 LLR 261 (Guj. HC)

Temporary driver engaged against regular post, who continued for years together, got all benefits, will not be entitled to any relief under ID Act when terminated, as such termination would fall under under 2(oo)(bb) of ID Act.

1. State of Maharashtra, through District Civil Surgeon, 2. Deputy Director of Health Services vs. Mehboobkhan S/o Rasool Khan Pathan. 2011 LLR 750 (Bom. HC)

Gratuity

Provisions in relation to gratuity of working journalists Act will prevail over the provisions of the Payment of Gratuity Act.

P. rajan Sandhi vs. Union of India & Anr. 2011 LLR 426 (S.C.)

When employee is allowed to retire, his gratuity can't be forfeited merely because criminal proceedings were pending against him.

New India Assurance Co. Ltd. vs. Ashwin Chimanlal Sheth & 2 Ors. 2011 LLR 66 (Guj. HC)

The person on fixed term employment when worked for more than 5 years because his contract was extended from time to time, will be entitled for gratuity.

U.P. Bhumi Sudhar Nigam, Lucknow vs. Appellate Authority and Others. 2011 LLR 164 (All. HC)

Personal allowance and special compensatory allowance would not form part of wages for the purpose of gratuity under Payment of Gratuity Act.

State Bank of India, Goa vs. Laxmikant Vithal Palekar & Ors. 2011 LLR 133 : 2011 (128) FLR 317 (Bom. HC)

Gratuity can't be withheld for not vacating the quarter by employee.

Jehangir Textile Mills vs. Sahebsingh Chotesingh. 2011 LLR 159 (Guj. HC)

Gratuity can't be withheld without complying principles of natural justice.

Manmohan Prasad vs. H.P. State Small Scale Industries and Export Corporation Ltd. 2011 LLR 177 (H.P. HC)

No forfeiture of gratuity without termination for the specified misconduct.

M/s. Bharat Coking Coal Ltd. vs. Union of India. Through its Secretary and Others. 2011 LLR 203 (Jharkhand HC)

Casual worker putting in five years of continuous service will be entitled to Gratuity.

Pioneer Spinners, rep. by its General Manager vs. Regional Labour Commissioner, Central, Chennai. 2011 LLR 151 (Mad. HC)

In the absence of any specific finding and charge against the petitioner, gratuity

amount cannot be forfeited.

Vinod vs. State of Maharashtra and others. 2011 (128) FLR 618 (Bom. HC)

Once the authority passed order under Gratuity Act, recovery against employer is bound to be effected.

Jehangir Textile Mills vs. Sahebsingh Chotesingh and Another. 2011 LLR 265 (Guj. HC)

When the employee was re-employed as fresh badli worker, he will only be entitled to gratuity for the period from the date of his re-employment till the last date of working.

Phoenix Mills Ltd., Mumbai vs. Manohar Arjun Rasal. 2011 LLR 382 (Bom. HC)

In the absence of any domestic enquiry and order under sec. 4 (6)(a) and (b) of the Payment of Gratuity Act, forfeiture of gratuity would be illegal.

Maharashtra State Road Transport Corporation, Mumbai vs. Maruti Ramchandra Mastud. 2011 LLR 397 (Bom. HC)

Allowing 15% compound interest for delay in making payment of gratuity by employer is proper.

Hindustan Steel Works Construction Ltd. vs. Suresh Kumar Chetal and Others. 2011 (128) FLR 745 (Chhattisgarh HC)

Payment of Gratuity Act is applicable on library. High Court can't direct the authority under the Act to extend the period of limitation beyond provided under the Act.

Administrative Officer, T.M.S.S.M. Library and Research Centre, Thanjavur vs. Appellate Authority Under Payment of Gratuity Act (The Joint Commissioner of Labour) and Others. 2011 LLR 351 (Mad. HC)

In the absence of separate order of forfeiture of gratuity, same can't be forfeited.

Manager Park Side Estate Nonsuch Post, Coonoor vs. Appellate Authority under the Payment of Gratuity Act/Joint Commissioner of Labour, Coimbatore and Ors. 2011 LLR 416 (Mad. HC)

Gratuity cannot be denied to an employee merely on the basis of the undertaking signed by him that he will not claim gratuity for the past period.

M. Selvadurai vs. Director Personnel, Block-I, Corporate Office Neyveli Lignite Corporation Limited & Ors. 2011 LLR 457 (Mad. HC)

Gratuity can not be forfeited for misconduct of subversive of good behaviour. But only for riotous and disorderly behaviour and both misconducts have different meaning altogether.

Jaya Hind Industries Ltd., Akurdi, Pune vs. Vilas Vithalrao Takale. 2011 LLR 638 (Bom. HC)

Gratuity with 8% interest rightly awarded to legal heirs of the employee.

State of U.P. vs. Smt. Anwari Begum and Another. 2011 (129) FLR 195 (All. HC)

Service of Badli worker during the years in which he did not complete 240 days, could not be considered for gratuity.

Vasantbhai Bhudarbhai vs. Manager, Arvind Intex. LLJ II 2011 P. 145 (Guj. HC)

The pendency of chargesheet against the employee cannot constitute a sufficient cause for non payment of interest on delayed payment of gratuity by the employer.

Vishal Singh Shekhawat vs. Rajasthan State Ganganagar Sugar Mills Ltd. 2011 II 445 (Raj. HC)

Controlling Authority under the Payment of Gratuity Act and not the High Court will be the appropriate forum when a person seeks to have Rs. 10 lakh after receiving Rs. 3.5 lakh as gratuity.

P. S. Gupta vs. Union of India & Ors. 2011-II CLR 70 (Del. HC)

Bank employee dismissed for financial irregularities will not be entitled to Gratuity.

Sabarkantha Dist. Central Co-op. Bank vs. Ramanbhai M. Patel & Ors. 2011 CLR I P. 871 (Guj. HC)

Gratuity can be forfeited for violent and riotous conduct of the employee.

Jaya Hind Industries Ltd. vs. Vilas V Takale. 2011 CLR II P. 229 (Bom. HC)

Even if the workman retained the company house illegally after retirement, employer cannot withhold the gratuity on this account. Gratuity cannot be attached in execution of a decree of the court.

Binny Limited vs. The Asstt. Commissioner of Labour (Authority under PG Act) & Ors. 2011 LLR 834 (Mad. HC)

In the absence of finding of quantified loss caused due to the employee's misconduct, gratuity cannot be forfeited under sec. 4(6) of the Act.

Vinod Vinayak Jinturkar vs. State of Maharashtra & Ors. 2011 LLJ II P. 659 (Bom. HC)

Employee of a registered society appointed prior to the date of Notification extending Payment of Gratuity Act, 1972, will be entitled to Gratuity under the Act.

Indian Environmental Society vs. Dr. L.M. Saxena. 2011 LLJ II P. 790. (Del. HC)

When official accomodation was not vacated after retirement, it was proper to adjust penal rent from retirement dues.

Smt. Asha Saxena (Dead) by LRs. vs. U.P. State Electricity Board and Others. 2011 LLR 924 (Allahabad HC)

Teachers are entitled to get gratuity under the Act.

Mahendra Singh Chhabra vs. Appellate Authority, Payment of Gratuity Act, Indore and Another. 2011 LLR 980 (MP HC)

Teachers will be entitled to gratuity from the date of joining and not from the date of the amendment effected in the Act i.e. 3.4.97.

Ananta Vishwanathan (Mrs.) vs. Shri Narayana Guru High School & Ors. 2011 LLR 995 (Bom. HC)

Employer can't be allowed to stall the claim of gratuity by indulging in litigation. Employer liable to pay gratuity with 15% compound interest.

Hindustan Steel Works Construction Ltd. vs. Suresh Kumar Chetal and Others. 2011 (3) LLN 163 (Chhattisgarh HC)

Gratuity claim after 5 years of VRS that too on fixed personal and compensatory allowance was not maintainable.

State Bank of India vs. Shri Laxmikant Vithal Palekar. 2011 (3) LLN 139 (Bom. HC)

Gratuity can't be claimed under ID Act.

VST Industries Ltd. vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District and Others. 2011 LLR 1170 (AP HC)

An order of the Controlling Authority under the Payment of Gratuity Act allowing claim for gratuity cannot be challenged and/or decided in a writ petition.

M/s. Ranbeer Automobiles and Another vs. State of West Bengal. 2011 LLR 1188 (Cal. HC)

Appeal against the order of controlling authority after maximum limit of 120 days will not be maintainable.

Bhavnagar Municipal Corporation vs. Sunderben Chhanabhai Baraiya Legal heirs of late Chhanabhai & 2 Ors. 2011 LLR 1250 (Guj. HC)

Habitual Absence

When workman remained absent for 57 days during four months and also habitually absenting, striking off the name would be proper.

Workman Sri PC. Manjhi vs. Management of Bokaro Steel Plant. 2011 LLR 846 (Jhar. HC)

No reinstatement to the workman who is found guilty of habitual absence from duty. Past record of various punishments on account of habitual absence cannot be ignored. Reinstatement set aside.

Management of Bokaro Steel Plant, A Subsidiary of M/s. Steel Authority of India Ltd. vs. State of Jharkhand and Another. 2011 LLR 847 (Jhar. HC)

Industrial Disputes Act

Dismissal of the case by the court is neither an award under I.D. Act nor determination of Industrial Dispute.

Rajman Shrikrishna Morya vs. Marshal Security Pvt. Ltd. 2011 LLR 25 (Bom. HC)

Part-time employee is entitled to protection under ID Act.

Himachal Pradesh State Electricity Board and Anr. vs. Laxmi Devi and Anr. 2011 LLR 52 (HP HC)

Management is absolutely within their powers to decline the recognition to charge sheeted union office bearer as protected workman. Such employee is not entitled to be nominated by union for recognition as protected workman under sec. 33(3) & (4) of ID Act

Hill Life Care Ltd. vs. Hindustan Latex Union (AITUC) 2011 (128) FLR 471 (Kerala HC)

Reducing the pay by merging 50% DA in basic would be illegal without complying with the Sec. 9A of the ID Act.

Sikh Educational Society vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T. Chandigarh. 2011 LLR 159 (P & H HC)

When the ID Act contemplates several steps like conciliation before reference to labour court, High Court can't circumvent the process and direct for reference for adjudication straight way.

SPIC Pharma Employees Union (SPEU), Cuddalore vs. State of Tamil Nadu, Chennai and Ors. 2011 LLR 275 (Mad. HC)

Overtime can't be claimed under sec. 33C(2) of the ID Act.

K.S. Natarajan, S/o. K.A. Srinivasan, Chennai vs. (1) Presiding Officer, Principal Labour Court, Chennai (2) Ananda Vikatan Vasan Publications Ltd., Chennai. 2010 (4) LLN 702 (Mad. HC)

For any breach of settlement, matter of dispute is to be referred by the Govt. for adjudication under ID Act since remedy is available under sec. 36A. Writ not maintainable.

Tamil Nadu Pokkuvarathu Kazhaga T. Nala Sangam vs. State of Tamil Nadu. 2010 (128) FLR 688 (Mad. HC)

Since the establishment was involved in manufacturing process of preparation of different articles from forest, will be an industrial establishment under ID Act.

Kishan Atmaram Kasti vs. Forest Development Corporation of Maharashtra Ltd. & Ors. 2011 (1) CLR 971 (Bom. HC)

When relationship of employer-employee between IIT and workman working in hostel is established, claim of over time payment under sec. 33C(2) of ID Act rightly allowed by Labour Court.

Indian Institute of Technology vs. The Presiding of Officer & Ors. 2011 LLR 591 (Madras HC)

Termination of a workman who is interested in pending dispute, without obtaining approval under section 33(1) of I.D. Act will be illegal. Labour court was not justified in rejecting the application of the workman without examining the legality.

Ashok Kumar Pradhan vs. Presiding Officer, Industrial Tribunal, Orissa and Others. 2011 LLR 627 (Orissa HC)

Provisions of section 33C(1) of I.D. Act include the payment arising out of chapter V-B and section 25-O. If consequent of closure of industry, workers were not paid compensation, they can very well claim the amount under section 33C(1) of I.D. Act.

M/s. United Soya Products Ltd. vs. Dy. Labour Commissioner, Bhopal and Others. 2011 LLR 629 (MP HC)

When an industrial dispute is raised belatedly, it is upon the workman to show that he was not responsible for the delay.

Executive Engineer, Public Works Department, Wardha vs. Namdeo Govindrao Nandurkar, Wardha. 2011-II CLR 46 (Bom. HC)

Industrial Dispute between workman & management of co-operative bank shall be decided exclusively by the Labour Court prospectively from date of SC judgment on the point.

Nirmalchandra Sirvastav vs. Labour Court, Varanasi. FLR (129) 2011 P. 370 (All. HC)

The jurisdiction of Industrial Court is not ousted only because the employer denies relationship of employer and employee.

Indo-European Breweries Ltd. vs. Dnyaneshwar s/o Shyamrao Dhanwate & Ors. CLR I 2011 P. 923 (Bom. HC)

Workman will be entitled to get relief under section 33C(2) of I.D. Act for payment of difference of wages reduced by the employer in contravention of section 9A of the I.D. Act.

Municipality Baretta, Bhatinda vs. Presiding Officer, Labour Court, Bhatinda and Another. 2011 LLR 818 (P&H HC)

An offence under section 29 of the Industrial Disputes Act for non-implementation of the Award will be continuing and section 468 of Criminal Procedure Code, providing for limitation, will not be applicable.

Joytirmay Roy vs. State of Bihar and Others. 2011 (129) FLR 982 (Patna HC)

A legal practitioner, in the capacity of an office-bearer of an Association, can represent an employer before the Labour Court.

South Arcot Vallalar District Mazdoor Union vs. Presiding Officer, Labour Court, Cuddalore and Others. 2011 (129) FLR 995 (Mad. HC)

In the absence of approval for dismissal pending proceedings, the order of the management terminating the services of workman becomes void ab initio.

Delhi Transport Corporation vs. Sudan Pal. 2011 LLR 897 (Delhi HC)

When workman was discharging his duties of driver after reinstatement, he will be paid current wages as paid to others and not the last drawn wages at the time of termination.

S.G. Ramalingam vs. Management of Tamil Nadu State Transport Corporation (Villupuram) Ltd. 2011 LLR 979 (Mad. HC)

Under sec. 33C(2) of ID Act labour court can interpret the settlement on which employee claim is based and allow the claim.

Registrar, J.N.K.V.V., Jabalpur and Others vs. Sudarshan Singh and Others. 2011 (130) FLR 130 (MP HC)

Claim application under sec. 33C(2) for more than last drawn wages not maintainable as it required further adjudication.

Kagatila Sambasiva Rao vs. Labour Court, Guntur, Guntur District and Others. 2011 (3) LLN 78 (AP HC)

Workmen are entitled to wages from the date of termination where retrenchment was held illegal and such claims of money under sec. 33C(2) rightly awarded by court.

Dhanalakshmi Mills Ltd., Tirupur vs. Presiding Officer, Labour Court, Coimbatore and Ors. 2011 LLR 1028 (Mad. HC)

Labour court order is liable to be quashed when claim under sec. 33C(2) was neither based on existing right nor the award as adjudicated.

State of U.P. and Another vs. Ram Sahai and Another. 2011 LLR 1103 (All. HC)

High Court is not expected to reappreciate the evidence and interfere with the labour court award passed under sec. 33(2)(b) in writ jurisdiction.

Delhi Transport Corporation vs. Presiding Officer, Industrial Tribunal-II & Anr. 2011 LLR 1113 (Del. HC)

Award after attaining finality can't be disturbed under the garb of factual errors.

Hind Filters Employees' Union vs. Factory Manager, Hind Filters Limited and Others. 2011 (130) FLR 675 (MP HC)

It is incumbent upon the workman to submit application to the Labour Court praying for summons for production of relevant record showing that he has worked continuously for a period of 240 days.

Mahesh Kumar Sharma vs. Divisional Forest Officer, M.P. & Ors. LLJ (III) 2011 P. 136 (MP HC)

Reduction of wages cannot be made without issuing a notice under section 9A of the Act.

Sikh Educational Society vs. Presiding Officer, Industrial Tribunal. FLR (128) 2011 P. 200 (P&H HC)

The labour court award without appreciating the recorded evidence in right perspective is liable to be set aside.

Krishan Kumar Nagar vs. The Management of M/s. Delhi Transport Corporation. 2011 LLR 1191 (Del. HC)

Section 33B of U.P. Industrial Disputes Act, 1947 provides power to the State Government for withdrawing any proceeding pending before a Labour Court and transferring the same to another Labour Court, hence a Labour Court can transfer a dispute to another Labour Court.

Meerut Development Authority, Meerut vs. Labour Court, Saharanpur and Another. 2011(130)FLR 868 (All. HC)

The benefit that is payable under section 33C(2) of the Industrial Disputes Act is pre-existing benefit or flowing from pre-existing right.

Crompton Greaves Limited vs. S.B. Lokhande and Others. 2011(130) FLR 908 (Bom. HC)

Compensation amounting to approx 7 years salary will be appropriate to the employee who worked little less than a year.

Bindan Singh vs. Institute of Company Secretaries of India. 2011(131) FLR 95 (Del. HC)

The benefit of overtime allowance was being made available upto 1982 and again from 1987, but when the workmen filed petition under section 33(C)(2) claiming this benefit during the interim period, the denial thereto by the Management, on the basis of departmental circular, is not justified and application is perfectly maintainable.

Faqir Chand vs. Food Corporation of India and Another. 2011(131) FLR 164 (P&H HC)

Labour court is not empowered to entertain a claim under sec. 33(C)(2) of ID Act which is not based on existing right.

Mohan Nagpal vs. Editor, Navbharat Times, New Delhi and Anr. 2011 III CLR 692 (P&H HC)

Conciliation Officer's bounden duty is either to record / register a settlement or to submit a failure report. He has no power and jurisdiction to declare that a bipartite settlement will be considered as binding upon all workmen.

Vidyut Metalics Employees' Union, Thane vs. Vidyut Metalics Pvt. Ltd., Thane and Ors. 2011 LLR 1262

When the workmen received the amount in terms of settlement without any protest, no claim under 33(C)(2) of ID Act can be made by them. Status of petitioners as to whether they are trainees or workmen can't be decided under such application.

R. Udayakumar etc. vs. The Presiding Officer, II Additional Labour Court, Chennai and Anr. 2011 LLR 1265 (Mad. HC)

An ex-parte order by the Labour Court, if not a speaking one and without findings on issues raised, is liable to be quashed.

Management of Venkateswara Electricals P. Ltd., Chennai vs. Presiding Officer, Principal Labour Court, Chennai and Anr. 2010 (IV) LLJ 393 (Mad. HC)

In the absence of production of complete pay roll, workman will be presumed to have worked for more than 240 days.

Divisional Forest Officer, Bhiwani vs. Chameli (Smt.) and Others. 2011 LLR 206 (P & H HC)

For claiming closure compensation workman has to prove that he has worked for 240 days during last 12 months. Burden not to be shifted to employer.

VST Industries Ltd. vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District and Others. 2011 LLR 1170 (AP HC)

Industry

Rajghat Samadhi committee will not be Industry under the ID Act.

Kanhaiya Lal vs. Union of India and Others. 2011 (130) FLR 109 (Delhi HC)

Integrated Child Development Services Scheme of Maharashtra state is an industry and the Anganwadi Sevikas and helpers are workmen under the ID Act.

Vidya vs. State of Maharashtra and another.
2011 (129) FLR 556 (Bom. HC)

Central council for research in Ayurveda & Siddha is "industry" under ID Act.

Central Council for Research in Ayurveda & Siddha vs. Central Govt. Industrial Tribunal, Jaipur & Anr. 2011 LLR 469 (Raj. HC)

Interim Relief

The principle of hearing the other side has to be followed in all proceedings.

T.V.S. Finance and Services Ltd. vs. H. Shivakumar. LLN(2) 2011 P. 12 (S.C.)

When interim relief was granted without hearing management, payment of 50% of last drawn wages would be appropriate.

TVS Finance and Service Ltd. vs. H. Shiva Kumar. 2011 LLR 192 (S.C.)

To avail interim relief under ID Act, filing of affidavit by workman about non employment is sufficient.

Food Corporation of India vs. Union of India and Others. 2011 LLR 77 (Cal. HC)

Interim relief under sec. 17B of the ID Act will be payable from the date of filing the writ by employer.

Candila Pharmaceuticals Ltd. vs. Jyotiben Harishbhal Pandit. 2011 LLR 162 (Guj. HC)

When the workman is gainfully employed getting more than adequate remuneration, there will be no justification of granting interim relief under sec. 17B of ID Act.

Rauf Mohamed Sheikh vs. Pragati Glass Works Pvt. Ltd. 2011 LLR 257 (Guj. HC)

Benefit of sec. 17B of ID Act will be available to workman from the date of filing application and not from the date of award.

Cadila Pharmaceuticals Ltd. vs. Jyotiben Harishbhai Pandit. 2011 LLR 267 (Guj. HC)

Interim relief under section 17-B of I.D. Act is available to the workman from the date of filing the writ petition by management and not from the date of the award.

Airport Authority of India and Another vs. Bharat H. Parmar and Others. 2011-II LLJ 390 (Guj. HC)

Amount paid by the employer to the employee as interim relief under sec. 17B is in the nature of 'subsistence allowance' and can't be recovered even if employee reinstatement is set aside.

General Manager, Government Milk Scheme vs. Shivaji Basvantrao Patil and 45 Others. 2011 LLR 752 (Bom. HC)

Employer is liable to pay interim relief to the employee pending proceedings in higher court under sec. 17B of ID Act even after his superannuation.

Management of Centaur Hotel vs. P S. Mohan Nair & Anr. 2011 LLR 762 (Del. HC)

It is mandatory for the employer to pay interim relief under sec. 17B of ID Act when challenging reinstatement in higher court.

Union of India and Another vs. Hemant Shamrao Sankpal. 2011 LLR 919 (Bom. HC)

Employer can pay last drawn wages as interim relief under sec. 17B without taking work from employee or if he wants to take work from him, employer has to pay at least minimum wages.

M/s. Natraj Picture Palace vs. Prescribed Authority, Minimum Wages Act, Asstt. Commissioner, Mirzapur and Others. 2011 LLR 921 (Allahabad HC)

Awarding interim relief of reinstatement till the decision of the complaint of unfair labour practice by the Industrial Court would not be interfered by the High Court in writ petition.

Chief Officer, Nagar Parishad, Yavatmal and Another vs. Smt. Pratibha Pradip Gaikwad. 2011(131) FLR 94 (Bom. HC)

For getting interim relief under sec. 17(B) of ID Act pending proceedings in HC, workman has to give an affidavit that he is unemployed, only then the payment will be released.

Satya Prakash and Sons vs. Presiding Officer, Labour Court, Kanpur and Another. 2011 LLR 1275 (All. HC)

An interim relief should not amount to granting final relief.

Zilla Parishad, Gadchiroli and Others vs. Chandramala. 2011 (130) FLR 701 (Bom. HC)

When labour court reinstated provisionally with 75% back wages, it will not be deemed as final award and if challenged in High Court by employer, no interim relief would be available to workman under 17-B of I.D. Act.

Hiru B. Barot vs. IPCA Laboratories Limited & Anr. 2011 LLR 644 (Bom. HC)

Lay-Off

For commencement of continuance of lay-off permission through application under Section 25-M(1) of Industrial Disputes Act, 1947 had to be made but the mills did neither apply for nor obtained the said permission hence the claim for wages for the alleged period of lay-off has been rightly allowed.

Management of Cambodila Mills, Coimbatore and Another vs. Presiding Officer, Labour Court, Coimbatore and Others. 2011-III LLJ 157 (Mad. HC)

Limitation

Labour Court would be treated as a court under limitation act.

Jankiram Pandharinath Thorat vs. Akot Municipal Council and Others. 2011 (130) FLR 427 (Bom. HC)

No limitation for filing application under sec. 33C(2) of ID Act.

M/s. Bhartiya Cutler Hammer Ltd. vs. Presiding Officer, Labour Court-II Faridabad and Others. 2010 (127) FLR 1086 (P & H HC) 770 (P & H HC)

Lock Out

Once it has been accepted by the workmen themselves that they had indulged in violence, a declaration of lock out cannot be held to be illegal.

Punjab Tractors Workers Union vs. Presiding Officer, Industrial Tribunal, Punjab, Chandigarh. 2011 (131) FLR 503 (P&H HC)

Minimum Wages

For non payment of Minimum Wages, three times penalty justified.

Unity Infraprojects Ltd. vs. Labour Enforcement Officer (Central) & Ors. 2011 LLR 25 (Bom. HC) and Tiruchirappalli North Sarvodaya Sangam, rep. by its Secretary, Trichy vs. Secretary to Government, Labour and Employment, Government of T.N., Chennai & Ors. 2011 LLR 33 (Madras HC)

Security guards even engaged through contractors are entitled to get minimum wages from the principal employer in case contractor fails to pay the same. Principal employer being a government body cannot take the stand that they are not liable to pay minimum wages.

Tool Room & Training Centre vs. Delhi Industrial Security Guards (Regd.). 2011 LLR 827 (Del. HC)

Authority under the Minimum Wages Act and not the Labour Court would be appropriate forum for making a claim when the wages, as paid by an employer, are less than the minimum rates of wages.

State Bank of India and Others vs. Basukinath Das and Others. 2011 (3) LLN 415 (Patna HC)

Part time employees working in hospital are also entitled for minimum wages.

Manjulaben Punjalal Dabhi vs. State of Gujarat and other. 2011 (130) FLR 824 (Guj. HC)

Before passing any order by labour commissioner, employers needs to be heard.

Hasmat Rai Burman vs. Union of India and Others. 2011 (130) FLR 578 (Patna HC)

Ten times amount of difference of wages as compensation not justified against principal employer when less minimum wages paid by contractor.

Fertilizer Corporation of India Ltd., G. Unit vs. Authority under M.W.A.C. for W.A.L.C. and Others. 2011 LLR 172 (All. HC)

Minimum Wages Act will not be applicable upon society registered under Tamil Nadu Co-operative Societies Act even though it is registered under the Factories Act.

Management, Dindigul Ladies Polythene Workers Industrial Co-operative Society Ltd. vs. Controlling Authority under the Minimum Wages Act, Dindigul and Another. 2011 LLR 283 (Mad. HC)

When the establishment not covered under Shop Act and out of 'Scheduled employment, can't be prosecuted under MW Act.

M/S Reliance Telecom Ltd. and another vs. State of Bihar and another. 2011 (128) FLR 198. (Patna HC)

Prosecution of an employer, for non-production of record and failure to furnish information to the inspector under Minimum Wages Act, will be tenable.

Radhe Shyam Makharia and another vs. State of Bihar and another. 2011 (128) FLR 272 (Patna HC)

Either the High Court or the Company Judge has no authority to direct payment of wages under the Minimum Wages Act since appropriate authority under the said Act has been constituted.

Bikramaditya Mishra vs. Official Liquidator, Rohtas. 2011 (128) FLR 1096 (Patna HC)

Misconduct

Non-disclosure by the workman of his having appeared for Matriculation examination was held not to be misconduct.

Bank of Baroda vs. Presiding Officer, CGI Tribunal. LLN(1) 2011 P. 388 (P&H HC)

Failing to cooperate in the enquiry will not be a misconduct.

Vinod Kumar Srivastava vs. State of U.P. and Others. 2011 LLR 975 (Allahabad HC)

Non-intimation about his admission in hospital by the employee will not be a misconduct warranting dismissal.

K.A.K. Babu vs. Depot Manager, A.P.S.R.T.C., Madhira Bus Depot Khammam District and Anr. 2011 LLR 993 (AP HC)

Misconduct means arising from ill motive. Acts of negligence, errors of judgment or innocent mistakes do not constitute such misconduct.

Narayan Prasad Dehariya vs. State of M.P. and Others. 2011 (130) FLR 1044 (MP HC)

Termination of bus conductor was not proper when he was found carrying passengers of another bus without ticket which met with accident. During accident normal rules often not followed. Standard of duty changes. So the misconduct can't be judged by same standards.

Dilip Srivastava vs. Presiding Officer, Industrial Tribunal, U.P. Kanpur and another. 2011 LLR 971 (Allahabad HC)

Disabled person does not have right to commit fraud against any one.

Satya Prakash & Sons vs. Presiding Officer, Labour Court, Kanpur & Anr. 2011 III CLR 170 (All. HC)

Acts of negligence, errors of judgment or innocent mistake cannot constitute misconduct which warrants initiation of disciplinary proceedings.

Narendra Kumar Tripathi vs. Union of India and others. 2011 (129) FLR 519 (Cal. HC)

No Work-No Pay

If the workmen are not allowed to work by the employer, the principle "no work no pay" will not apply.

Panipat Co-op. Sugar Mills Ltd. vs. Presiding Officer, Labour Court & Ors. CLR II 2011 P. 292 (P&H HC)

Over time

When a worker is provided with accommodation, travelling allowance and city compensatory allowance are not universally paid to each and every employee, such allowances are not required to be included for the purpose of over time payment under 'ordinary rate of wages' as per sec. 59(1) and (2) of Factories Act.

Jossie vs. Flag Officers Commanding-in-Chief. 2011 LLR 1168 (Kerala HC)

Payment of wages

It is not necessary for the authority to decide preliminary issue first without discussing the merits under Payment of Wages Act

Sub Divisional Officer, Bharat Sanchar Nigam Ltd. vs. Prescribed Authority and Another. 2011 LLR 170 (All. HC)

In the absence of any loss due to negligence, deduction of wages will be illegal.

Charan Singh vs. General Manager, Punjab Roadways, Hoshiarpur. 2011 LLR 579 (P&H HC); 2011 FLR (129) P. 630

It would be unjust to allow management to recover the amount from workman after 15 years which he might have withdrawn from the payment of wages authority court under his order.

U.P. State Road Transport Corporation vs. Appellate Authority under Payment of Wages Act, Mau and Others. 2011 LLR 629 (All. HC)

Construction of residential house activity will be covered under the Payment of Wages Act.

Smt. Shashi Sharma vs. The Labour-cum-Conciliation Officer & Anr. 2011 LLR 841 (P&H HC)

Challenging order of the employer proposing to make deduction of 8 days' wages of the striking workers under article 226 of Constitution of India will not be appropriate since the appropriate forum has been provided under the Payment of Wages Act, 1936.

Hind Khadan Mazdoor Federation vs. Coal India Ltd. and Others. 2011 (130) FLR 125 (MP HC)

Five times penalty instead of ten times for non payment of leave wages would be proper keeping in view the financial difficulties of the organization.

Akola Zillah Dudh Utpadak Sangh Sahakari Sansthanacha Sangh Ltd., Akola vs. Sheshrao Ramchandra Mhasaye. 2011 LLR 1018 (Bom. HC)

No writ against order of authority under Payment of Wages Act.

Ramala Sahkari Chini Mills Limited, Meerut vs. Authority under Payment of Wages Act and Others. 2011 LLR 1102 (All. HC)

Denial of wages to data entry operators reverted to the post of conductors for the period from the date of reversion to date on which the workmen were restored to their original position will be illegal.

State Express Transport Corp. Ltd., rep. by its M.D., Chennai and Another vs. Arasu Viraiivu Pokkuvarathu Oozhiyar Sangam, Rep. by its General Secretary, Chennai-2. 2011 LLR 278 (Mad. HC)

Part Time Employee

For reckoning the length of service in context of sec. 25F of the ID Act engagement of part time typist on intermittent occasions can't be counted as service. Not entitled to retrenchment benefits.

G.I.C. Housing Finance Ltd., Hyderabad and Another vs. Presiding Officer, Labour Court-I, A.P., Hyderabad and Another. 2011 LLR 801 (AP HC)

Probationer

"Unsatisfactory service" will not be penal in case of termination of the probationer.

Paramjit Singh vs. Director, Public Instructions & Ors. 2011 LLR 116: 2011 (128) FLR 495 (S.C.)

The days put in by the workman on his probation can't be considered for counting 240 days for the concept of continuous service. Termination of probationer as per his terms of appointment will not be termed as retrenchment.

Management of Apparel Export Promotion Council vs. Surya Prakash. 2011 LLR 333 (Del. HC)

Promotion

Employee can't be promoted merely on the basis of his claim that he was performing highly skilled work and possess minimum qualification.

U.P. State Road Transport Corporation vs. Imtiaz Ahmad and Another. 2011 LLR 977 (Allahabad HC)

Punishment

The findings of the enquiry officer having being upheld by court, no reason why the employee could escape the penalty of dismissal from the service.

Punchmahal Vadodra Gramin Bank Vs. D.M. Parmar 2011 (131) FLR 1019 (SC)

It is well settled that punishment is primarily a function of the Management and the Courts rarely interfere with the quantum of punishment.

Sate Bank of Mysore and others etc. vs. M.C. Krishnappa. 2011 (130) FLR 1082 (SC)

Denial of salary on principle of "no work no pay" and termination of service on account of unauthorised absence are not two punishment.

State of U.P. and others vs. Madhav Prasad Sharma. 2011 (128) FLR 915 (S.C.)

Reference

Govt. is not to see the delay in raising the dispute, but whether the dispute existed or not while making reference.

Kuldeep Singh vs. G.M., Instrument Design Development and Facilities Centre and another. 2011(128) FLR 121; 2011 I CLR 5 (S.C.)

Reference of a dispute for increase of salary by the employee of a temple, not against the appropriate person/employer, will not be justified hence the claim is liable to be quashed.

Sri Nathji Bhandar and Another vs. State of West Bengal and Others. 2011 (129) FLR 1086 (Cal. HC)

Appropriate government, in exercise of its administrative powers, can decline to refer a dispute for adjudication when there is perversity and inordinate delay without any justifiable explanation.

I.N.T.U.C., Bhagalpur and Another vs. Union of India and Others. 2011 (129) FLR 989 (Patna HC)

Though there is no limitation for making reference provided in the law but it ought to be made within reasonable time. Employer must show that such delayed reference has caused prejudice to him.

Bank of India vs. Union of India and Others. 2011 (130) FLR 48 (Patna HC)

The Government can refuse to make a reference to the Labour Court or Industrial Court if the dispute is raised after a long delay.

Natvargiri Shivgiri Goswami vs. Union of India & Ors. FLR (129) 2011 P. 974 (Guj. HC)

When conciliation proceedings were pending, no order to refer the dispute could be made by the High Court in writ petition.

SPIC Pharma Employees Union (SPEU) Cuddalore vs. State of Tamil Nadu & Ors. LLJ (III) 2011 P. 72 (Mad. HC)

The appropriate government can very well decline to refer the dispute when raised after 20 years.

M. Kadirvelu vs. Union of India, rep. by its Secretary, Ministry of Labour, New Delhi & Anr. 2011 LLR 534 (Mad. HC)

Referring a dispute by Govt. raised by workman after about 9 years is liable to be quashed.

All India Institute of Medical Sciences vs. Sanjay Kumar & Anr. 2011 LLR 398 (Del. HC)

Workman can raise industrial dispute even after receiving VRS benefits though management can object the legality of the reference before tribunal.

M/s. Greaves Cotton Ltd. vs. Govt. of N.C.T. of Delhi & Ors. 2011 LLR 315 (Del. HC)

State Govt. power for referring the dispute is administrative one and not a judicial or quasi-judicial.

Bihar Colliery Kamgar Union, Dhanbad vs. Union of India & Ors. 2011 LLR 304 (Jharkhand HC)

Govt. while declining to refer the dispute should records reasons for the same. Govt. can't assume power and jurisdiction of adjudicator.

Kartar Singh and Ors. vs. Joint Secretary to Government of Haryana and Ors. 2011 LLR 859 (P & H HC)

Regularisation

When canteen is run by Hotel Corporation of India in the premises of Air India, dismissed employees of HCI can't be treated as employees of Air India and any such regularisation would be illegal.

Balwant Rai Saluja & Ors. vs. Air India Ltd. & Ors. 2011 LLR 739 (Del. HC)

Daily wager has no right to ask for restoration of status as he has no status. No regularisation of such employee.

Sushil Kumar Srivastava vs. Public Service Tribunal, Uttarakhand and Others. 2011 LLR 309 (Uttarakhand HC)

Once enquiry is conducted, management can't take plea that workman was temporary and no enquiry was required. In the absence of any reference on the point, tribunal can't grant regularization to the workman.

General Manager (Telecom), Nagpur & Ors. vs. Zarir S/o Pesi Mawalwala, Nagpur & Ors. 2011 LLR 1020 (Bom. HC)

Employees appointed as assistants temporarily by LIC in various branches will not be entitled to regularisation.

Hashmuddin and Others vs. Life Insurance Corporation of India and Others. 2011 LLR 511 (All. HC)

Reinstatement

Merely because the appointment was contrary to the recruitment rules, reinstatement with back-wages can't be denied to the employee who was appointed on consolidated salary and continued to work for two years and termination was found illegal.

Devinder Singh vs. Municipal Council, Sanaur. 2011 LLR 785 (S.C.)

Charge of misappropriation is not mitigated by depositing the amount back. Reinstatement in such case with full back wages is improper and set aside.

S.B.I. vs. Hemant Kumar. 2011 LLR 449 (S.C.)

Even in the case of illegal termination, reinstatement with back wages is no longer a rule.

Bata India Ltd. vs. Fourth Industrial Tribunal, West Bengal and Others. 2011 LLR 68 (Cal. HC)

Reinstatement not proper of a bank cashier who is found guilty of misappropriation. Even no compassionate appointment for legal heir of such person.

B.K. Basavalingappa, since deceased by his L. Rs. vs. Chitradurga Gramin Bank, represented by its Chairman. 2011 LLR 189 (Karn. HC)

No reinstatement of Bus conductor who assaulted checking inspector and took back sold tickets.

Management of Pallavan Transport Corporation (represented by its General Manager), Chennai vs. (1) Anbazhagan (2) Presiding Officer, First Additional Labour Court, Chennai. 2010 (4) LLN 736 (Mad. HC)

Misconduct of negligence being negligible, reinstatement appropriate.

T.N. State Transport Corporation (K) Ltd. vs. P.O. Labour Court Trichy, 2011 LLR 284 (Mad. HC)

Workman is entitled to receive wages for the period from the date of order of reinstatement to the date of actual

reinstatement by the employer.

Nagar Palika Nigam, Khandwa vs. Tulsiram and Another. 2011 LLR 405 (MP HC)

Even though the retrenchment may be illegal and unjustifiable, that itself does not create a right of reinstatement with full employment benefits and back wages.

Kripa Ram vs. Secretary H.P. State Board. LLN (1) 2011 P. 264 (MP HC)

Non payment of retrenchment compensation at the time of termination does not mean that such workman will be automatically reinstated.

National Small Industries, Kashmipur vs. Labour Court, Haldwani and Another. 2011 LLR 419 (Uttarakhand HC)

Compensation instead of reinstatement is justified when employee was terminated according to terms of appointment though Section-25F was not complied with.

Ramesh Singh Rajput vs. Castrol India Ltd. and Another. 2011 LLR 505 (Del. HC)

Striking off name of workman from roll due to absence without notice or retrenchment compensation will be illegal. Compensation instead of reinstatement would be proper.

Mayank Desai vs. Sayaji Iron & Engg. Co. Ltd. & Anr. 2011 LLR 536 (Guj. HC)

In case of illegal termination, compensation in lieu of reinstatement and back wages will be proper.

State of Chhattisgarh & Anr. vs. Umendi & Ors. 2011 LLR 581 (Chattis. HC)

Reinstatement not the compensation will be appropriate relief to the malaria workers who have worked for more than 240 days of their disengagement and were not paid retrenchment compensation.

Smt. P. Pentamma vs. The Presiding Officer Labour Court, Guntur & Anr. 2011 Lab IC 1206 (A.P. HC)

Granting reinstatement would not be proper when the establishment has been closed down at the time of order hence the workman will get benefit of retrenchment compensation.

State of U.P. through Principal Secretary, Deptt. of Land Development vs. Vinay Kumar Maurya. 2011 (II) LLN 65 (All. HC)

Compensation in lieu of reinstatement with back wages can be granted by the court, to be calculated taking into consideration service putting by the workman.

Suresh Chander vs. Nagar Palika, Rajsamand & Anr. 2011 LLR 654 (Raj. HC)

At the age of 57, employee should be awarded monetary compensation instead of reinstatement.

State Bank of Patiala vs. Union of India & Ors. 2011 LLR 701 (All. HC)

When a worker is dismissed from service in view of his conviction for an offence involving moral turpitude, he may be reinstated in service on his acquittal by the Appellate Court.

Maharashtra State Financial Corporation vs. Nimba Jagannath Tamboli. CLR I 2011 P. 1018 (Bom. HC)

Lump-sum Compensation in place of reinstatement would be appropriate where workman only worked for 3 years and 15 years have passed since termination.

Indian Acrylics Ltd. and Anr. vs. Presiding Officer, labour Court, Patiala and Ors. 2011 LLR 794 (P&H HC)

Relief of reinstatement with back-wages granted by labour court was upheld partially by the High Court restricting the same to reinstatement only. Back-wages was set aside because it should not be passed in a mechanical order.

Oghad Masri Rabari vs. State of Gujarat. 2011 LLR 811 (Guj. HC)

Reinstatement with full back wages proper in the case where employee got the loan and leave from the employer for under going bypass surgery but could not go because he was unable to arrange money demanded by the hospital. Such Act can't be termed as deceiving the employer and unauthorised absence. Termination on such misconduct is illegal.

Punjab National Bank and Others vs. Subhasini Das and Others. 2011 (129) FLR 812 (Cal. HC)

Though termination was held illegal and violative of standing orders of corporation, no reinstatement was ordered because workman reached the age of retirement by the time of order.

General Manager, Indian Oil Corpn. Ltd. vs. Ravindranath Mishra & Anr. LLJ II 2011 P. 802 (Patna HC)

Reinstatement set aside granted by labour court when workman (trainee) remained absent unauthorizedly and not responded to management call to report for duty. Employee lost the job of his own and not due to any wrong by management.

Surat Municipal Corporation vs. Aminesh Chandravadan Bodiwala. 2011 LLR 905 (Guj. HC)

Consequential reliefs on reinstatement would mean the back-wages on higher post.

Punjab Land Development and Reclamation Corporation Ltd. vs. Presiding Officer, Industrial Tribunal, Punjab and Another. 2011 LLR 1090 (P&H HC)

Reinstatement justified when retrenchment compensation was not paid to the employee.

Fosroc Chemicals (India) Ltd., through Jayesh B. Sarang vs. Satishbhai Tamakuwala. 2011 (I) CLR 848 (Guj. HC)

Reinstatement proper of female employee, who was dismissed for slapping security guard with chappal in self defence, when she was sexually harrassed by security guard.

Smt. Vijaya Jalali vs. HMT Limited & Ors. FLR (127) 2010 P. 651 (MP HC)

When petition of the employer, seeking approval for dismissal of a workman is rejected, the workman will be

automatically entitled to reinstatement and he can claim wages under section 33C(2) of the Industrial Disputes Act.

P. Sundararaj vs. Presiding Officer, I Addl. Labour Court, Chennai and Another. 2011 (129) FLR 119 (Mad. HC)

In the case of loss of confidence, compensation instead of reinstatement would be appropriate.

Vajravelu vs. Management of Salem Steel Plant, Salem and Anr. 2011 LLR 269 (Mad. HC)

In lieu of reinstatement and back wages, compensation of Rs. 10,000/- is too meagre. Enhanced to Rs. 75,000/-

Rukshmaniben Hiralal Rajpopat vs. Rajkot Nagar Primary Education Committee. 2011 (131) FLR 872 (Guj. HC)

When employer denied duty to workman on reinstatement, employee will be entitled to salary for the period.

Panipat Co-operative Sugar Mills Ltd. vs. Presiding Officer, Labour Court, Ambala and Others. 2011 LLR 918 (P&H HC)

When the bus conductor was charged for taking money from passengers without issuing tickets but found short of cash or Rs. 8.50, charge can't be believed to be proved. Dismissal illegal. Reinstatement with 50% back wages appropriate.

Krishan Kumar Nagar vs. Management of M/s. Delhi Transport Corporation. 2011 LLR 1273 (Del. HC)

No reinstatement of a bank employee who showed lack of honesty and integrity.

Sagar Sadashiv Kasture, Pune vs. Central Bank of India, Bombay and Others. 2011 LLR 17 (Bom. HC)

No reinstatement with back wages to a workman who declined the offer of the employer during conciliation to take him back but without back wages.

Milestone (Franki Stall) Mumbai vs. Mathew D'souza & Anr. 2011 LLR 22 (Bom. HC)

Reinstatement with 50% back-wage will be appropriate when the employer, at the time of termination of service of the workman, did not comply with the conditions precedent as stipulated by section 25-F of the Industrial Disputes Act.

Chairman, Central Silk Board, Central Silk Complex, Bangalore and Another vs. Presiding Officer, Industrial Tribunal, Patna and Another. 2011 (III) LLJ 36 (Patna HC)

When a reinstated workman had worked from the date of his initial appointment, the earlier period will be counted for continuity of service hence the employer is directed to grant work-charge status to the workman alongwith interest on the unpaid amount.

Nanda Ram vs. State of H.P. and Ors. 2011 LLR 415 (HP HC)

Termination of daily wages beldars without paying retrenchment compensation is illegal. Reinstatement without back wages justified.

Yog Raj vs. State of H.P. and Others. 2011 (128) FLR 999 (HP HC)

When daily wage workman raised Industrial Dispute after 10 years, compensation of Rs. 25000/- in lieu of reinstatement would be proper. Reliefs rightly refused.

Mohd. Zakir S/o Sheikh Rahmatulla vs. Divisional Controller, Maharashtra State Road Transport Corporation, Amravati and Two Others. 2011 LLR 1023 (Bom. HC)

Lump-sum compensation equivalent to 6 months wages would be proper instead of reinstatement with 50% back wages in case of a workman of 4 year service.

State of U.P. and Another vs. Hind Majdoor Sabha, Meerut and Others. 2011 LLR 1024 (All. HC)

When the workman produced medical certificate of his disease while reporting for duty, his dismissal would be illegal and reinstatement with 25% back wages would be proper.

Employers in relation to the Management Sijua Colliery of M/s. Tata Steel Ltd. vs. Their Workman Dilip Kumar Singh. 2011 LLR 214 (Jharkhand HC)

Compensation and not reinstatement justified in case where Tax Collectors services were discontinued even in violation of sec. 6N of U.P. ID Act.

Nagar Palika, Shahjahanpur vs. Balram Mehrotra and Another. 2011 LLR 102 (All. HC)

When workman failed to establish his working of 240 days in a year and there is no breach of sec. 25F of ID Act, even assuming illegal termination, compensation and not reinstatement will be appropriate.

New Ambika Sahkari Mandali Ltd. (I.B.P. Dealers) vs. Charansinh Shiv Narayansinh Rajput. 2011 LLR 345 (Guj. HC)

Compensation instead of reinstatement proper when the workman reached age of superannuation and was disabled due to injuries and he was illegally terminated on the ground being unfit for service.

General Manager, Indian Oil Corporation Ltd., Begusarai & Anr. vs. Rebindra Natha Mishra & Anr. 2011 LLR 185 (Patna HC)

When a helper on daily wage after completion of 240 days was terminated without notice and compensation, reinstatement without back wages is proper.

Superintending Engineer, Rani Awanti Bai Sagar Project, Jabalpur and Others vs. Narayan Prasad Vishwakarma and Another. 2011 (128) FLR 907 (MP HC)

Resignation of an employee accepted on the same day by the school managing committee will not be construed to be given voluntarily when employee did not have any time to withdraw.

Manager, Shri Sanatan Dharam Saraswati Bal Mandir School & Anr. vs. Shri K.P. Bansal & Ors. 2011 LLR 605 (Delhi HC)

It is the discretion of the management to accept the resignation or treat it under VRS. Rejecting application of the employee to treat his resignation under VRS by management can't be said to be malafide.

Dr. C. Madhusoodan vs. Steel Authority of India Ltd. and Another. 2011 LLR 1046 (Karn. HC)

In the absence of any version by the employer against the plea of employee that she was forced to resign, reinstatement rightly awarded against such illegal termination.

M/s. Jagran Ltd., Meerut Through its Director vs. Labour Court (II, U.P.), Meerut, and Others. 2011 LLR 1084 (All. HC)

To be treated as a letter of resignation with in the eyes of law, language should be un-conditional without reflecting any pressure.

Gujarat Water Supply & Sewage Board and Anr. vs. Mahavirsinh Balapbha Gohil. 2011 LLR 1259 (Guj. HC)

When there is no provision of waiver of notice period, instant acceptance of resignation will not come in the way of withdrawal of resignation by the employee after four days of submission.

P. Gayathri vs. Secretary, Dakshin Bharath Hindi Prachar Sabha, Hyderabad, and Another. 2011 LLR 139 (A.P. HC)

When the resignations were in employee handwriting and received all legal dues with extra amounts, can't be said that resignations were obtained under coercion and were invalid.

Management of Madura Coats Pvt. Ltd. and Anr. vs. Presiding officer, labour court, Tirunelveli 2011 I CLR 298 (Mad. HC)

In the absence of any proof of obtaining resignation under coercion, no industrial dispute is maintainable.

Management of Madura Coats Pvt. Ltd. and another vs. Presiding Officer, Labour Court, Tirunelveli and others. 2011(128) FLR 1040 (Mad. HC)

Daily-rated employees, once regularised, would become entitled to all service benefits.

Din Bandhu vs. Presiding Officer, Labour Court, Bhatinda, and Another. 2011 (130) FLR 469 (P&H HC)

Resignation submitted after developing an under standing can't be termed as involuntary or retrenchment.

Shuddhodhan and Others vs. Member Industrial Court, Nagpur, 2011 (128) FLR 412 (Bom. HC)

After completion of stipulated period of service in bond, employer can't compel the employee to be with him in service.

Resignation

Acceptance of resignation before completion of notice period will not be invalid even though it was stated in the resignation that it will be accepted after three months.

Mahesh Kumar Gupta vs. Labour Court, Dehradun and Another. 2011 LLR 493 (All. HC)

Damodar Valley Corporation & Ors. vs. Souvik Sarkar and Ors. 2011 LLR 174 (Cal. HC)

Retrenchment

Retrenchment compensation can be claimed only against existing establishment and not a closed one.

Ram Janam Singh vs. Ashok Kumar Jain. 2011(128) FLR 97 (Jharkhand HC)

When the workman performance was found unsatisfactory, compensation in lieu of reinstatement would be appropriate even though his retrenchment was illegal.

Prakesh Chand Agrawal vs. Presiding Officer, Labour Court (II), Kanpur & Anr. 2011 LLR 167 (All. HC)

When workers were recruited for a specific program not as permanent employee, such workers can't acquire permanent status. Such retrenchment is not illegal.

Vijay Kumar Bajpayee vs. M.P. Urga Vikas Nigam Ltd. and Another. 2011 (128) FLR 672 (MP HC)

Even if employer did not comply with the provisions of section 25-F of I.D. Act regarding payment of compensation while terminating the services, payment of consolidated damages/compensation instead of reinstatement would be proper.

Purvanchal Vidyut Vitran Nigam Ltd., Varanasi and Another vs. State of U.P. and Others. 2011 LLR 631 (All. HC)

The termination of the service of the workman was held to be in violation of S.25-F of the Act, but since his appointment was not regular, he was held entitled to compensation only.

Nepal Khichhu Ram vs. Presiding Officer, Labour Court. LLJ II 2011 P. 80 (P&H HC)

It is the bounden duty of the employer to produce the service record of the workman who alleges violation of provisions of Sec.25-F and 25-G.

Navinsingh Bharodiya vs. State of Madhya Pradesh. LLJ II 2011 P. 283 (M.P. HC)

Even in the case of violation of sec. 25F of ID Act or sec. 6N of U.P. ID Act, compensation / reasonable damages should be paid instead of reinstatement.

M/s. Areva T & D India Ltd. vs. Presiding Officer, Labour Court U.P., Allahabad & Ors. 2011 LLR 697 (All. HC)

While calculating 240 days working in case of daily wage workman, period of weekly holidays and public holidays are to be excluded. Since workman did not qualify for retrenchment benefits, he is not entitled to any relief under sec. 25H of ID Act.

Ranjit Natvar Lal Chauhan vs. Morbi Nagar Palika. 2011 LLR 704 (Guj. HC)

Daily wage completed 240 days will be entitled of benefit of sec. 25F of I.D. Act. Retrenchment without compliance illegal.

Yog Raj vs. State of Himachal Pradesh. CLR I 2011 P. 1011 (Himachal Pradesh HC)

For applicability of sec. 25F of ID act there is no distinction between a permanent and the muster roll employee. Muster roll employee terminated without retrenchment compensation who worked for more than 7 years will be entitled to reinstatement with full consequential benefits.

Subhash Chand vs. Municipal Corporation of Delhi. 2011 LLR 791 (Del. HC)

Under U.P. ID Act even the probationer or an appointee for a fix period is entitled to the benefit of sec. 6N. Retrenchment compliance is mandatory in these cases too.

Managing Director, Pradeshik Co-operative Dairy Federation Ltd., Lucknow and Another vs. Presiding Officer, Labour Court, Agra and Others. 2011 LLR 799 (All. HC)

After lapse of 35 years from retrenchment, even if it was held illegal, compensation of Rs. Two Lakh shall serve the end of justice in place of reinstatement with back wages.

State of Bihar vs. Gajadhar Singh (Amin) 2011 LLR 830 (Patna HC)

No reinstatement even if there is no compliance of retrenchment procedure of paying notice and compensation. Instead 50% back wages as damages would be proper.

Deputy Director, Administration Rajya Krishi Upadan Mandi Parishad, Agra & Anr. vs. Presiding Officer, Labour Court, Agra and Another. 2011 LLR 969 (Allahabad HC)

Compensation and not reinstatement would be proper even when retrenchment of supervisor on daily basis was not as per procedure.

State of U.P. and others vs. Presiding Officer, Labour Court No. 2, Ghaziabad U.P. and Another. 2011 LLR 973 (Allahabad HC)

When workman worked for 80 days, plea of infraction of 25F of ID Act can't be taken. However, since bank clerk cum-cashier was terminated without notice in violation of 25G and 25H, compensation of one lakh in lieu of reinstatement with back wages would be proper.

Sudha Ratna Singh vs. Union of India and Others. 2011 (130) FLR 58 (Patna HC)

Retrenchment justified when a department of the school is shut down. No prior approval of retrenchment is required from director of education in case of unaided school.

Prabhu Dayal Public School & Ors. vs. Anirudh Singh and Ors. 2011 LLR 1016 (Delhi HC)

In the absence of any document pertaining to enquiry on the misconduct of wilful absence and termination order, such termination amounts to illegal

retrenchment and reinstatement with back wages will be justified.

Punjab Agriculture University and Anr. vs. Presiding Officer, Labour Court and Anr. 2011 LLR 1086 (P&H HC)

Retrenchment effected without complying the provisions of sec. 9A of the ID Act would be illegal.

Y. Premalatha vs. Hyderabad Co-operative Central Trading Society Limited and another. 2011 (130) FLR 1091 (AP HC)

When company failed to prove why principle of 'last come first go' not followed, retrenchment would be invalid.

Mahavir Steel Industries (P.) Limited, Pune vs. Pune Workers Union, Pune and another. 2011 (130) FLR 1103 (Bom. HC)

Retrenchment without adhering to the mandatory provisions of S.25 is void ab initio.

Municipal Council vs. Chhotalal & Anr. LLN I 2011 P. 258 (Raj. HC)

Once retrenchment is held to be genuine and bonafide by complying all statutory requirements, reinstatement can't be ordered.

Vicco Laboratories Limited and Another vs. Maharashtra General Kamgar Union. 2011 LLR 1178 (Bom. HC)

It is mandatory for the employee to complete 240 days service in a year to avail protection under sec. 25F of ID Act.

1. Management of Apparel Export Promotion Council vs. Surya Prakash. 2011 LLR 1208 (Del. HC)

2. Dharmender Singh vs. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Union Territory and Another. 2011 LLR 1215 (P&H HC)

In case of illegal termination without retrenchment compensation, reinstatement without back wages proper.

Board of Secondary Education vs. Rajesh Nema and Another. 2011 LLR 1280 (MP HC)

Employee who has continued in service for five years cannot be terminated form service without complying with the provisions of section 25(F) of the I.D. Act.

Keru Kisan Rokade vs. Geoffery Manners & Company Ltd., Nashik. LLN (4) 2010 P. 697 (Bom. HC)

When bankers cheque towards one month notice and retrenchment compensation is offered to the employee at the time of retrenchment, it complies with the provisions of ID Act.

Sudarshan Rout vs. Commissioner-cum-Secretary to Govt. of Orissa & Ors. 2011 LLR 477 (Orissa HC)

Retrenchment without following the principle of "last come first go" held illegal. Reinstatement without back wages proper.

Mussoorie Dehradun Development Authority vs. Shri Rameshwar and Others. 2011 (128) FLR 1030 (Uttarakhand HC)

Retirement

When the workman retired during the pendency of the case, compensation and not reinsurance rightly awarded by Labour Court.

Krishna Chandra Rout vs. Presiding Officer, Labour Court, Sambalpur & Three Ors. 2011 LLR 354 (Orissa HC)

In the absence of having practice of not employing persons till life-time, employee cannot challenge his retirement at the age of 58 on the plea that there were no service rules.

T. Anantha Krishan vs. Management of Madras Purasawalkam Hindu Janopakara Saswatha Nidhi or The Permanent General Benefit Fund Ltd., Chennai and Another. 2011-II LLJ 557 (Madras HC)

Award of wages beyond the age of retirement is not sustainable.

Mahalaxmi Fibres & Industries Ltd. vs. Santosh Tiwari & Ors. LLJ II 2011 P. 100 (Jhar. HC)

When there is a settlement about retirement age at 60 years, there will be no significance of Model Standing Orders providing 58 years as retirement age.

Balmer Lawrie & Co. Ltd., Mumbai & Anr. vs. Engineering Workers' Association, Mumbai & Anr. 2011 (II) CLR 787 (Bom. HC)

Settlement

During the operation of settlement when agreed that no financial demand will be raised, enhancement of retirement age will not be tenable.

M/s Kennametal India Ltd. vs. Kennametal India Employees' Association & Ors. 2011 LLR 584 (Kar. HC)

Bipartite settlement arrived at under section 18(3) of I.D. Act will not be binding on the subsequent purchaser of the factory.

General Sec., Gujarat Audhyogik Kamgar Sangthan vs. Kalyan Paper & Board Mills & Anr. 2011 LLR 659 (Guj. HC)

When a settlement has been made by a Union unrecognised under the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971, only those employees will be entitled to benefits who have been a party to it.

S.D. Muley and Others vs. Jaihind Industries and Another. 2011 (129) FLR 929 (Bom. HC)

Company cannot be said to have violated the provisions of ID Act when acted as per conciliation settlement.

Indian Semlting And Refining Company Limited vs. Anthony D' Almeida and another. 2011 (130) FLR 958 (Bom. HC)

Settlement signed by the earstwhile employer with the employees will not be binding on the subsequent employer who bought machinery and factory. Since new purchaser was not party to settlement employees can't get any benefit from the new employer on the basis of the settlement.

General Secretary, Gujarat Audyogik Kamgar Sangthan vs. Kalyan Paper & Board Mills & Anr. FLR (129) 2011 P. 1067 (Guj. HC)

Settlement executed with the majority union is binding upon all workmen including members of minority union and the settlement will continue to be effective for specific period till the same is substituted by another settlement.

Taj Services Ltd. vs. Industrial Tribunal-1 Delhi & Ors. 2011 LLR 1133 (Delhi HC)

Employees who have left services by opting golden handshake and by receiving compensation in terms of section 18(1) of the settlement are not entitled to enhance compensation given to other employees in subsequent settlement.

G. Damodaran & Ors. vs. Managing Director, Hindustan Liver Ltd. LLN (4) 2010 P. 725 (Mad. HC)

Shops & Establishments

Society imparting education to deaf community covered as establishment under Delhi Shops Act will also be covered under Minimum Wages Act.

Multipurpose Training Centre for the Deaf vs. Government of NCT of Delhi & Ors. 2011 LLR 548 (Del. HC)

Standing Orders

When certified standing orders providing the age of retirement at 58, reduction of retirement age from 60 to 58 by the management will not amount in to change in service conditions.

Sri Achyuta Charan Panda vs. The Managing Director, Paradeep Phosphates Ltd. 2011 LLR 472 (Orissa HC)

There was no foundation in the complaint, as there was no statement that

petitioner's establishment employed 100 or more workmen in the 12 months preceding the inspection to attract the applicability of Industrial Employment (Standing Orders) Act. Thus, there was no basis for the prosecution to show the Act was applicable to petitioner's establishment.

Bapineedu Chowdary vs. State of Andhra Pradesh and Another. 2011-III LLJ 196 (AP HC)

Strike

The doctors, residents, interns, para-medical staff and any other person connected with AIIMS can't be allowed to go on strike. Any such strike is illegal. Such persons engaging themselves in such activity would be liable for disciplinary proceedings and contempt of court.

Scheduled Castes and Scheduled Tribes Medical Association (Regd.) Delhi vs. Union of India and Others. 2011 LLR 366 (Del. HC)

During the pendency of conciliation proceedings it is not open to the unions and its members to proceed on strike. It would be an illegal strike.

Bharat Petroleum Corporation Ltd., Mumbai vs. Petroleum Workmen's Union Thane & Ors. 2011 III CLR 187 (Bom. HC)

Suspension

In the absence of proof of reporting for duty after revocation of suspension order, workman will not be entitled to any salary.

Chaman Lal vs. Presiding Officer, Labour Court, Patiala. 2011 LLR 577 (P & H HC)

Termination

When employee submitted cogent proof of his date of birth, his termination on the ground of providing wrong age would be illegal.

Shambhu Mishra vs. Airport Authority of India Ltd. & Ors. 2011 LLR 90 (Del. HC)

Termination without any charge though discharge simpliciter would still be illegal retrenchment when conditions precedent not followed. Reinstatement with 30% back wages proper.

Cotton Corporation of India Ltd. and Another vs. State of Rajasthan and Others. 2011 LLR 74 (Raj. HC)

No illegal termination of a temporary employee due to abolition of his post.

Ahmedabad Municipal Transport Service vs. Atul Chimanlal Shah. 2011 LLR 194 (Guj. HC)

A temporary employee on a post which is abolished and is relieved, such action can't be termed as termination. No reinstatement in such case.

Ahmedabad Municipal Transport Service vs. Atul Chimanlal Shah. 2011 LLR 254 (Guj. HC)

Termination of a probationer will be illegal without enquiry if show cause is issued.

Jagdish Chand vs. Managing Director, H.R.T.C. and Others. 2011 LLR 346 (HP HC)

While imposing punishment, consideration of past records is important. Termination for unauthorised absence of 18 days improper. Reinstatement without wages granted.

Veer Chand vs. D.T.C. 2011 (128) FLR 547 (Del. HC)

Casual or daily rated workers when not appointed as per rules will not be entitled to any relief on termination.

Bachsangji Chehraj Thakur & Ors. vs. Deputy General Manager & Ors. 2011 (I) CLR 862 (Guj. HC)

Once the termination has been found void ab-initio, reinstatement with seniority ought to be granted.

Kirpa Ram vs. Secretary, H.P. State Board and Others. 2011 LLR 507 (HP HC)

Merely because the insurance company made good the losses caused to bank by the abuse of powers by the employee in case of granting loans against bank lending norms, removal from service of such employee can't be set aside.

Sunil Kumar Srivastava vs. Union of India and Others. 2011 LLR 1036 (All. HC)

One who is offered work on daily wages is not entitled for any notice or one month's pay in lieu of notice, while service terminated.

State of Maharashtra, Sub Divisional Forest Officer vs. Sadashiv Maroti Doke & Anr. LLN (3) 2011 P. 124 (Bom. HC)

Regularising juniors and terminating the services of senior would be in violation of sec. 25A, 25B, 25F and 25G of ID Act. Termination has illegal.

Superintendent, Ummed Hospital, Jodhpur vs. Judge, Industrial Disputes Tribunal and Labour Court, Jodhpur. 2011 LLR 1115 (Raj. HC)

Trade Union

Derecognition of the union by airlines management without following the rules of natural justice is liable to be set aside.

Air Corporation Employees Union vs. Air India Ltd. 2011 (129) FLR 752 (Delhi HC)

When the employer at the request of the Union has been deducting the subscription of the Union while making the payment of wages, it cannot be stopped since it will be against the fundamental right granted for formation of a trade union.

Coimbatore Periyar Districts Dravida, Panjalai Thozhilalar Munnetra Sangam, rep. by its Gen. Secretary S. Doraisamy & Ors. vs. National Textile Corporation Limited, Coimbatore & Ors. 2011 LLR 1076 (Mad. HC)

Registrar is empowered to give registration to a union as a multi state union.

Akhil Dadra & Nagar Haveli Kamgar Sangh, Silvassa, Dadra & Nagar Haveli vs. Krantikari Kamgar Union & Ors. 2011 III CLR 26 (Bom. HC)

Withdrawal of recognition of a union will not be interfered by the High Court.

Committee of Management Trimurti Higher Secondary School, Khushhal, Moradabad vs. State of U.P. and others. 2011 LLR 246 (All. HC)

Before de-recognizing the union, employer must issue show cause notice to union and afford an opportunity of hearing.

Air Corporation Employees Union vs. Air India Ltd. 2011 I CLR 695 (Del. HC)

Although no employer is under an obligation to offer check-off (collecting membership fee from members) facility to the Union but when such a facility has been extended for 21 years, its withdrawal, all of a sudden, would be arbitrary.

Rashtriya Colliery Majdoor Congress and Another vs. South Eastern Coalfields Ltd. and Others. 2011 (130) FLR 248 (MP HC)

Transfer

Where undertaking transferred from one employer to other, in the absence of any specific provision, taking consent of employee for transferring his services to new employer does not apply. In such case employee is not entitled to any compensation on the ground that he is not willing to work with new employer.

J.V. Sudhakar vs. Government of A.P. rep. by its Principal Secretary, Labour Deptt. and Ors. 2011 LLR 43 (A.P. HC)

Conciliation officer has no powers to stay the transfer orders made by employer. He can only mediate and not adjudicate the dispute.

Maharashtra General Kamgar Union, through its Joint Secretary and Ors. vs. Pix Transmissions Ltd. & Anr. 2011 I CLR 106 (Bom. HC)

Where Standing Orders restrict transfer of employees to Bangalore only, transfer of employees to another state would be illegal.

M/s. Madura Coats Pvt. Ltd., Rep. by its Manager vs. The Workmen of M/s. Madura Coats Pvt. Ltd., Rep. by Madura Coats Employees' Union. 2011 LLR 81 (Karn. HC)

Transfer of chemical engineer from Durgapur plant to sales office as sales manager at Kolkata that too without any vacancy would be malafide and illegal.

Dipankar Bandopadhyay vs. Durgapur Chemicals Ltd. & Ors. 2011 LLR 293 (Cal. HC)

Transfer of a Technician Grade II to another post in the same category cannot be construed as illegal.

T.N. Mohila and Others vs. U.P. State Electricity Board and Others. 2011 LLR 834 (All. HC)

Transfer on allegations of misconduct without putting the employee on notice and seeking his reply is bad in law.

Madhura Mohan Nayak vs. State of Orissa & Ors. LLN(2) 2011 P. 613 (Orissa HC)

Transfer from Bhopal to Bhubaneswar that too on temporary basis needs no interference.

Dr. H.S. Tripathi vs. National Council for Teachers Education and Others. 2011 LLR 916 (MP HC)

When bank employee was suspected of fraud, his transfer instead of putting him on disciplinary proceedings, would be illegal and liable to be set aside.

Biplab Das vs. The Chairman, Bangiya Gramin Vikash Bank & Ors. 2011 LLR 947 (Cal. HC)

Transfer from one company to another having separate legal entity not permissible. Transfer on the ground of indulgence in anti-management activities cannot be turned into administrative exigencies.

Sneha Kumar Pradhan vs. Mahanadi Coalfields Limited and others. 2011 (130) FLR 852 (Orissa HC)

When transfer order affects the service condition and financial entitlements, then court can interfere with the order that too when the transfer was ordered only after 21 days of first transfer.

Kartika Chandra Ray vs. Neelachal Gramya Bank and Others. 2011 LLR 706 (Orissa HC)

Inconvenience of the employee in domestic front in view of transfer can't justify interference with transfer order.

Tapan Kumar Das Purkayastha vs. Hindustan Paper Corporation Ltd. 2011 LLR 735 (Gauhati HC)

Unfair Labour Practice

Inviting workers to undergo training to act as officers through introduction of promotion scheme by management would not be unfair labour practice.

Siemens Ltd. Vs. Siemens Employees Union 2011 (131) FLR 1100 (SC)

Showing workers as on project, but in fact doing perennial nature of work, would be unfair labour practice.

Reliance Energy Ltd., Mumbai vs. Yadavya Giri and Others. 2010 (4) LLN 787 (Bom. HC)

Keeping sweepers and bus body cleaners as temporary for years together would be unfair labour practice. Order of making them permanent proper.

Tamil Nadu State Transport Corporation (Madurai Division-IV) formerly known as Rani Management Transport Corporation Ltd., Dindigul vs. (1) Presiding Officer, Industrial Tribunal (2) Secretary, Rani Mangammal Pokkuwarathu Thozhilalar Sangam, Dindigul. 2010 (4) LLN 703 (Mad. HC)

Paying less to daily wagers having identical nature of duties with permanent, will amount to unfair labour practice under ID Act.

Maharashtra Lok Kamgar Sanghatana vs. Ballarpur Industries Ltd. and another. 2011 (128) FLR 885 (Bom. HC)

If a workman was employed and re-employed to show that his services were terminated before 240 days will amounts to unfair labour practice.

Krishan Lal vs. General Manager, Haryana Roadways, Rohtak and another. 2011 (128) FLR 752 (P&H HC)

VRS

Under VRS, right of management to accept or reject the application of any employee for VRS can't be questioned.

Chairman and M.D., Indian Overseas Bank & Ors. vs. Tribhuwan Nath Srivastava. 2011 LLR 225 (S.C.)

Employees relieved under VRS cannot raise Industrial Dispute under Section 2A of the ID Act.

Bayer Bio Sciences Pvt. Ltd. vs. Presiding Officer, Labour Court-I and Others. 2011 (129) FLR 17 (AP HC)

Once employee makes option for VRS and is also accepted by the management, can't be further withdrawn by the employee.

Anil Nandwani (Mrs.) vs. Food Corporation of India & Ors. 2011 LLR 518 (Del. HC)

When employee was relieved under VRS, no disciplinary proceedings could be initiated against him.

S.V. Vanajakshi vs. TUCS Limited, represented by its Special Officer, 119, Big Street, Triplicane, Chennai-5. 2011 (I) LLN 709 (Mad. HC)

Employee has a right to withdraw his notice of voluntary retirement before acceptance by the management.

Mahendra Gajanan Trivedi vs. Bank of India & Ors. 2011 LLR 1096 (Guj. HC)

Condition of refunding amount received after VRS by workman is proper in order to challenge VRS which was accepted under duress.

Man Singh vs. Maruti Suzuki India Ltd. & Another. 2011 LLR 1009 (SC)

If an application for voluntary retirement is not withdrawn before acceptance, its acceptance by the employer will be valid.

Siddaiah vs. Management of Mandya National Paper Mills Ltd., Belagula. 2011 LLR 1267 (Karn. HC)

Withdrawal of application for voluntary retirement is permissible till the date the same is to be effected in future.

Balaram Saghan Kshetra Samiti vs. Kantaben Laljibhai Patel & 2 Ors. 2011 LLR 1251 (Guj. HC)

Workman

Even if the casual workers appointed for six months on monthly break up to 30 years can't claim permanency being original appointment not in terms of the process envisaged by the rules.

Union of India & Ors. vs. Vartak Labour Union. 2011 LLR 337 (S.C.)

Person can't be denied of benefit of a workman under ID Act merely because he was designated as apprentice or trainee. In the absence of trainer to impart any training to such persons, they will treated as workman. Entitled for reinstatement.

Workmen of PMP Textiles, Coimbatore vs. Management of PMP Textiles & Anr. 2011 LLR 731 (Mad. HC)

Test to determine whether a person is a workman or not is to be decided by examining the true nature of his dominant duties.

Superintending Engineer MSED Company Ltd. vs. Sukhadev Ramchandra. CLR II 2011 P. 185 (Bom. HC)

'Balsevika' working on honorarium will not be a workman under ID Act.

Devinder Kaur (Smt.) vs. Child Welfare Council, Punjab & Ors. 2011 LLR 357 (P&H HC); 2011 I CLR 42 (P&H HC)

To decide, whether a person is a workman, his nature of dominant duties and not the designation will be sole criterion.

Superintending Engineer, Maharashtra State Electricity Distribution Co. Ltd. (O&M), Chandrapur and Anr. vs. Sukhdeo Ramchandra Dhakite, Nagpur. 2011 LLR 662 (Bom. HC)

No relief to workmen when they failed to establish the master-servant relationship.

This is the burden, workmen have to discharge.

Rahimuddin and Others vs. Gossini Fashions Ltd. 2011 LLR 824 (Del. HC)

Discharging duties of drafting agreement, lease deeds, affidavits and maintaining records can't be said to be of a workman in nature. Employee was held not be a workman.

Anita Mathur vs. Idea Cellular Ltd. 2011 LLR 1066 (Delhi HC)

Advocate / Legal advisor of the bank is not a workman under ID Act.

Sonepat Central Co-operative Bank Ltd. vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and Anr. 2011 III CLR 704 (P&H HC)

Branch officer of a finance company can't be held to be a workman.

Gruh Finance Limited vs. Pradip K. Shah. 2011 III CLR 708 (Guj. HC)

Personal financial consultant of a bank appointed in lower management cadre will not be a workman under ID Act. Dominant nature of duties and responsibilities are to be seen.

Vandana Joshi D/o. Mr. K.D. Joshi, Thane vs. Standard Chartered Bank Ltd. 2011 LLR 126 (Bom. HC)

Assistant civil engineer and administrative officer are not workman under ID Act.

Exhibition Society, Exhibition Grounds, Nampally, Hyderabad vs. Labour Court-II, Nampally, Hyderabad & Ors. 2011 LLR 532 (AP HC)

Part time junior executive discharging the functions of loan documentation, cheques disbursement making ledger entries, preparing notices, statements, maintaining EMI accounts, receiving cheques and cash from customers are more of administrative nature hence will not be a workman under ID Act.

G.I.C. Housing Finance Ltd., Hyderabad and Another vs. Presiding Officer, Labour Court-I, A.P., Hyderabad and Another. 2011 LLR 801 (AP HC)

Design and development engineer simply checking drawings prepared by draftsman will be workman under ID Act.
Mayank Desai vs. Sayaji Iron & Engg. Co. Ltd. & Anr. 2011 LLR 536 (Guj. HC)

Sub managers appointed under separate contract of employment in the same mill will not be workman under ID Act.

Management of Madura Coats Pvt. Ltd. and Another vs. Presiding Officer, Labour Court, Tirunelveli and Ors. 2011 LLR 486 (Mad. HC)

Whether the person is a workman or not, this plea is to be raised before labour court. Raising such objection in High Court will not be of any help to management.

Aringer Anna Primary Agricultural Bank v. Presiding Officer, Labour Court. LLN (4) 2010 P. 476 (Mad. HC) **BM**