

Circular No – 036/2024

Date:13.05.2024

To

All Members of the Association

Decision of Karnataka High Court

**EXECUTIVE SECRETARY OF THE MANAGING DIRECTOR
OF THE COMPANY IS NOT WORKMAN**

1. The employee concerned in the Writ Petition was employed as Executive Secretary of the Managing Director of the company. Her services were terminated as per the terms and conditions of her appointment without payment of any compensation etc. The employee concerned raised an industrial dispute before the Labour Court by filing application under section 10-(4A) of the ID Act.
2. The Hon'ble Labour Court in its Award dated 08.03.2018 held that the employee is a workman and further held that proper procedure for termination of employment has not been followed and hence directed the management to pay Rs.5 Lakhs as compensation in lieu of reinstatement, continuity of service, full back wages and all other consequential benefits.
3. The company challenged the Award of the Labour Court by filing writ petition before the Hon'ble High Court of Karnataka in W.P.No. 49982/2018(L-TER) and the employee also challenged the Award of the Labour Court by filing Writ Petition in W.P.No.49982/2018. Both the writ petitions were heard together. The Hon'ble High Court by its order dated 08.04.2024 dismissed the writ petition filed by the employee and allowed the writ petition filed by the management of the company.



4. The Hon'ble High Court held as under:
"From the appointment letter and applicants resume and it was evident that her responsibilities included assisting the Chairman, Managing Director and Director in their day to day tasks. It included managing the travel arrangement, ensuring timely payment of bills related to travel expenses, updating schedule and adhering to the company's policies and procedure, despite the designated employee as Executive Secretary, her duties were more akin to the Managerial and Supervisory rolls rather than clerical work."
5. The employee had an extensive experience of 17 years in secretarial assistance before joining the company which was undoubtedly influenced by her appointment. The documents provided delineated her managerial and supervisory responsibility, particularly in maintaining the records for the Managing Director and the Chairman.
6. The High Court concluded that the duties performed by the employee aligned more closely with those of a manager rather than fitting within the scope of a workman as defined under section 2(s) of the ID Act.
(Case Title: Smt. Bhuvaneshwari Vs. The Management of M/s. Ambuthirtha Power Pvt. Ltd., W.P No.49982/2018 (L-TER) C/W W.P No.6531/2019 L-RES).
7. The company was represented by the office of the President of the Association.

For KARNATAKA EMPLOYERS' ASSOCIATION
Sd/
[B C Prabhakar]
President