

Circular No – 015/2026

Date: 12.03.2026

To
All Members of The Association

IT CONSULTANT IS NOT A "WORKMAN"
HOLDS KARNATAKA HIGH COURT

1. Tata Consultancy Services terminated the services of one of their Software Consultant for unsatisfactory performance. The employee concerned raised an industrial dispute before the Labour Court and claimed that he is a 'workman' and his services ought not to have been terminated without following the due process prescribed in law. The Labour Court set aside the termination of services and ordered for reinstatement with all the benefits.
2. The company challenged the Award of the Labour Court before the Hon'ble High Court of Karnataka. The Hon'ble High Court allowed the Writ Petition and observed that the work performed by the Respondent involves significant amount of mental input and independent judgment which falls outside the scope of the duties typically associated with a workman.
3. Some of the relevant observations of the High Court are listed below:
 - It is a settled proposition of law that the burden of proof to establish the status of a workman is on the person making the claim.

- Generally, the party that asserts a positive fact bears the initial burden of proving it. In employment disputes, the employee claiming himself as a workman or wrongful termination must first provide some evidence to establish his claim.
- Once the employee discharges their initial burden by presenting credible evidence, the onus (or evidential burden) shifts to the employer to refute the claim with their own documentary evidence.
- Courts generally avoid requiring a party to prove a negative proposition if the relevant facts are especially within the knowledge of the other party.
- Burden to prove that an employee was not a workman cannot be placed upon the management.
- An employee's self-serving statement about their work nature is not conclusive proof.
- The determination of workman status must be based on the dominant nature of actual duties and functions, supported by cogent evidence.
- An assistant consultant in software company, involved highly specialized, imaginative and creative intellectual work, not manual, skilled, or clerical work is not a workman.
- Work involving significant amount of mental input and independent judgment falls outside the scope of duties typically associated with a workman.
- When an employee was doing creative work, he cannot be considered a workman.
- In Indian labour law, a person primarily involved in imaginative and creative work is generally not classified as a workman.
- Finding that an employee is strong performance cannot be based on isolated facts.





- Factors such as actual project delivery, impact, and skill demonstration are key indicators of high performance.”
(TATA Consultancy services Ltd Vs. Krishna Raju Ananta Murthy and Others 2026 LLR 293)

The above judgment is relevant even after the Labour Codes have come into force as the definition of workman under the Industrial Disputes Act is parametria with the definition of worker under the Industrial Relation Code 2020 (comments in LLR while reporting the judgment).

For KARNATAKA EMPLOYERS' ASSOCIATION
Sd/
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President