

## **COMMON ORDERS ON I.A.NO.10 AND 11**

The Authorized Representative appearing on behalf of the first party has filed the present applications U/s 11 of I.D.Act, 1947 r/w Sec.151 of C.P.C seeking to re-open the case from the stage of arguments and to re-call WW-2 Sri.Sathish P N in order to adduce further evidence of the witness for the purpose of production of certified standing orders of the second party.

2. In the affidavit annexed to the applications, it is contended that, the above matter pertains to termination caused to 44 workman who were transferred illegally to Mysore Vikruthmala village near Thirupathi in the year 2018 in utter violations of the terms of the agreement reached on 07.01.2019 before the concerned authorities in the Department of Labour at Bengaluru. Further, it is stated that the second party has extensively referred about the certified standing orders in various documents, especially the addendum to the appointment orders dated:06.10.2016 and in the so called transfer orders issued to all the 44 workmen including the applicant. But, the second party has not produced the same. The certified standing order contains in the service conditions applicable to the first party workmen. The document is also referred in the claim statement and it is admitted in the cross-examination of MW-1 and the MW-1 also deposed that he has no difficulties in producing the certified standing orders. Further, it is stated that it is relevant to the present case to produce the certified standing

orders as referred to in the addendum to appointment letter for proper adjudication of the matter. But, during the course of arguments it was found that the said document was not produced by the second party and the first party could not produce it for obvious reasons. Further, it is submitted that the certified standing order of the second party is very important, hence the first party workmen may be permitted to produce the said document to meet the ends of justice. It is noticed that the second party has produced the certified standing orders of the second party in some domestic enquiries and also produced the same in another matter pending before the Hon'ble Industrial Tribunal, Mysuru. With all other grounds the first party workmen prays to allow the applications.

3. On the other hand, the second party management has filed objections to the said applications contending that, the first party has cleverly drafted the applications by concealing the facts and circumstances and requisite information by misleading and misinterpreting the facts, hence the application is not maintainable. The employees have been transferred from Mysuru unit to Thirupathi unit located at APIIC industrial area, Electronics manufacturing cluster-2, Thirupathi, Chittur District, Andhra Pradesh. Said employees after getting themselves relieved from the Mysuru factory, have reported to duty at Thirupathi on 10.08.2018 and their place of work was Thirupathi until 31.05.2020, the said employees have been working at the Thirupathi unit around 2 years and they are governed by

model standing orders of Andhra Pradesh. The said 44 employees working at Thirupathi unit, the provision of model standing orders governed under the Andhra Pradesh Industrial Employment (Standing orders) Rules, 1953 are applicable, not the standing orders of Mysuru Unit as per the provisions of the Karnataka Industrial Employment (Standing orders) Rules, 1961. The 44 employees working at Thirupathi unit have raised multiple disputes against the management of the Thirupathi unit before the Joint Labour Commissioner and DLC of Thirupathi jurisdiction Andhra Pradesh. Further, it is submitted that prior to filing of the present applications for production and marking of the certified standing orders applicable to Mysuru unit, has taken a notice against the second party counsel u/s 11 of I.D.Act, 1947 for the production of certified standing order of the second party Mysuru unit. After hearing both the parties, this court was pleased to reject the notice taken by the first party. After the orders of the court the first party has filed the above application seeking permission of the court to mark the same by re-opening the case and recalling the witness WW-2 by concealing the facts, the first party is trying to get the documents marked with an ulterior motive. The applications have been filed just to protractive proceedings. Under these circumstances both the applications filed by the first party u/s 11 of I.D.Act, 1947 r/w sec.151 of CPC seeking to adduce further evidence are liable to be dismissed. The first party knew very well that the Mysuru unit

had nothing to do with Thirupathi unit. Hence, the said documents is not applicable for the first party. Hence, prays to dismiss both the applications.

4. Heard both sides on the applications.

5. The following points do arise for consideration;

*1. Whether the first party has made out grounds to reopen and recall WW-2 for the purposes adducing further evidence and for production of certified standing order of the second party as prayed for?*

*2. What order?*

6. My answer on the above points are as under;

Point No.1: **Negative.**

Point No.2: As per the final order  
for the following

### **REASONS**

**7. Point No.1:** I have heard the authorized representative for the first party and learned counsel for the second party company. In the course of arguments the first party counsel submitted that it is the right of the first parties to produce the standing order before this court whether the action is justified or not. It is the liberty of the first party in order to prove their case

The crux of the matter lies with the certified standing orders of the case and what it says. The certified standing order is very vital document for the proof of whole issues. Hence, prays to allow the applications.

8. On the other hand, the learned counsel for the second party vehemently argued that, the dispute is pertaining to 44 terminated employees from Vikruthamala, Thirupathi, Andra Pradesh. They are not the employees of the Mysuru unit. The employees have been transferred from Mysuru unit to Thirupathi unit, Chittur District, Andra Pradesh. The said employees after getting themselves relieved from the Mysuru factory have reported to duty at Thirupathi on 10.08.2018 and their place of work was Thirupathi until 31.05.2020 and the said employees have been working at the Thirupathi unit for around 2 years and they are governed by the model standing orders of Andra Pradesh. The certified standing orders applicable to Mysuru unit is not relevant to this case. Hence, the application seeking for production of the certified standing orders of the second party relating to Mysuru unit is nothing to do with the present dispute at hand. Hence, prays to reject the applications.

9. On going through the pleadings it reveals that the present dispute has been referred by the Government for adjudication of the issues involved in the case. However, it is the case of the first party workman that they are the members of the first party union and they were illegally transferred to Vikruthamala plant in the state of Andra Pradesh. In spite of this the

management was continuously refusing to provide work to the workman who were presenting themselves for work. The management illegally refused to provide the work to the workmen who have gone all the way to Vikruthamala from Mysuru Unit to protect their livelihood and work for the company. On 06.10.2018 the second party refused to provide the work to the workmen, hence they returned back from Thirupathi and made complaints before the concerned. When these workmen reported for work at Mysuru plant of the second party, the management refused to provide work to these workmen even at Mysuru. It is contended that the second party management terminated the services of all the workman illegally who reported for work at Vikruthmala plant as per the agreement dated:07.01.2019. On the other hand, the contention of the second party management is that, the first party workmen were relieved from Mysuru unit and transferred to Vikruthmala plant at Thirupathi and they were retrenched at Thirupathi plant and as such this court has no territorial jurisdiction to adjudicate the present reference. On the basis of the contentions raised by both the parties this court has also framed issues by casting burden on the parties to establish their respective contention in accordance with pleadings.

10. In the present case it is not in dispute that the first party workman were relieved from Mysuru unit and transferred to Vikruthmala unit at Thirupathi, Andhra Pradesh and they were retrenched at Thirupathi plant. Therefore, undisputedly the first party workmen are not the employees of second party

company at Mysuru unit. It is to be noted that, prior to filing of the interim applications at hand by the first party seeking for production and marking of certified standing orders applicable to Mysuru unit, they have taken a notice against the second party by virtue of application filed u/s 11 of I.D.Act, 1947 seeking to issue direction for production of certified standing order of the second party Mysuru unit. However, this court after hearing arguments of both parties has passed orders vide dated:20.01.2025 rejecting the application filed by the first party u/s 11 of I.D.Act, 1947 seeking for issue of direction to second party to produce the certified standing orders and other documents, holding that the relevancy of the certified standing order of Mysuru unit to cause production of same before the court, is not established by the first parties. Hence, in the earlier orders passed by this court on the similar nature of application filed by the first party this court has clearly observed regarding relevancy of the standing orders pertaining to the Mysuru unit to the present case on hand. The first party has not assigned any reasons either in the earlier application filed vide I.A 9 or in the present applications filed u/s 11 of I.d.Act, 1947 vide I.A 10 and 11 regarding relevancy of the certified standing order of the Mysuru unit. Thus, the findings given by this court on the earlier application filed by the first party vide I.A.9, has been remained unchallenged. The first party having not challenged the findings of the earlier order passed by this court regarding relevancy of the standing order pertaining to the Mysuru unit, now by virtue

of present applications is not supposed to contend that the said document is required to be marked before the court. In order to connect the relevancy of the document in question which is sought to be produced by way of further evidence, the first party has neither shown any reasons nor made out bonafide grounds to permit him to adduce further evidence by reopening the case. In view of the above reasons, the first party have failed to made out reasonable and justifiable grounds for re-opening the case and adduce further evidence as sought for in the applications. Hence, I answer the above point in the **Negative**.

11. **Point No.2:** For the aforesaid reasons on point no.1 above, I proceed to pass the following;

### **ORDER**

*I.A.No.10 and 11 filed u/s 11 of I.D.Act,1947 r/w sec.151 of C.P.C seeking to reopen the case and adduce further evidence of WW-2, are hereby rejected.*

*No order as to cost.*

*Call on for further arguments by 15.04.2025.*

sd/-

**Presiding officer,  
Labour Court, Mysuru.**