

KAMS060001242022



**BEFORE THE INDUSTRIAL TRIBUNAL AT MYSURU**

**DATED THIS THE 13<sup>th</sup> DAY OF FEBRUARY 2025**

Present:- Sri.Rudolph Pereira B.Com., LL.M.,  
Presiding Officer,

**Ref.No.28/2022**

**First Party  
workmen:**

**Sri/Smt.**

- 1. Nandeesh, Valveman,**
- 2. Sagar S.D., M.S.O.,**
- 3. Shivanna, Assistant,**
- 4. H.N.Ramesh, Assistant,**
- 5. Ravi H.C., Assistant,**
- 6. Basavegowda, Assistant,**
- 7. M.Ashoka, Assistant,**
- 8. Revanna, Assistant,**
- 9. Parvathi G.V., Assistant,**
- 10. Chowdaiah, Assistant,**
- 11. Erappa, Assistant,**
- 12. Shivanna, Assistant,**
- 13. Vivek M.S.,**
- 14. Balaram, Water supply operator,**
- 15. Javaraiah, Assistant,**

- 16. Chalugaraju.C., Assistant,**
- 17. S.Raghavendra, Valveman**
- 18. C.Manju, Assistant,**
- 18. Puttabuddhi.C, Assistant,**
- 20. Chandregowda, Assistant,**
- 21. Mallesha, Cash Clerk,**
- 22. Shivanna, Assistant,**
- 23. K.B.Ganesha, Assistant,**
- 24. Rajashekhara.H.S., Assistant,**
- 25. Balarama.B, Assistant,**
- 26. Munavar Ahmed Siddiqui,  
Water Supply Operator,**
- 27. Mahadeva.S, Assistant,**
- 28. Thammanna H.C., Assistant,**
- 29. Shivanna, Assistant,**
- 30. P.Rajasha, Valveman,**
- 31. H.Raju,**
- 32. Madeva, Assistant,**
- 33. Nagamma, Valve Woman,**
- 34. Shivanna M.R.**
- 35. R.Manjunatha, Assistant,**

- 36. Kempegowda J, Assistant**
- 37. Jaffer Shareef, Cash Clerk,**
- 38. Kumara P, Valveman,**
- 39. T.Hemakumar, Valveman,**
- 40. Mahadeva, Valveman,**
- 41. Parashivamurthy, Meter Reader,**
- 42. Srikantamurthy, Valveman,**
- 43. Chandrashekar C, Valveman,**
- 44. Shankara, Assistant,**

Represented by President,  
Mysuru City Corporation,  
Vani Vilas Water works Workers'  
Union®,  
Mysuru-1.

**[By Sri.S.Shanthappa, Authorised  
Representative]**

-Vs-

**Second Party:**

- 1. The Secretary,**  
Urban Development Authority,  
Karnataka State,  
Vikasa Soudha,  
Bengaluru.
- 2. The Commissioner,**  
Mysuru City Corporation  
Mysuru.
- 3. The Executive Engineer,**  
Vani Vilas Water works,  
Yadavagiri, Mysuru-20.

**4. The Assistant Executive Engineer,**  
Vani Vilas Water works,  
Yadavagiri, Mysuru-20.

**[Second party No.1: Exparte, Second  
party No.2 to 4: By Sri.N.Madhusudhan,  
Advocate]**

**ORDERS ON PRELIMINARY ISSUE**  
**(ADDITIONAL ISSUE NO.3)**

This is a Reference made by Government of Karnataka for adjudication of an industrial dispute between the parties which is in respect of regularization of the service of the first party workmen.

2. Herein, the first party is a Trade union consisting of 44 workmen, who are working at Mysuru Mahanagarapalike, Vani Vilas Water Supply Board, Mysuru. The President of the first party Trade Union is espousing the cause of the above said 44 workmen, who are the members of the first party Trade Union.

3. The first party Trade Union is contending that since several years, the above workmen were working under Vani Vilas Water Supply Board on contract basis and subsequently, the said Vani Vilas Water Supply Board was merged with Mysuru City Corporation, Mysuru, (for short, MCC). It is stated that the Mysuru City Corporation has regularized its 4 workmen (Engineers) though they

are juniors to the 44 workmen represented by the first party Trade Union herein.

4. The second party No.2 to 4 have filed objections statement by inter-alia contending that the above said workmen belongs to Group-D, whereas, the Junior Engineers & Assistant Engineers, who were regularized by the Mysuru City Corporation, Mysuru are belong to B & C Group employees, hence service conditions of said employees cannot be applied to the Group-D employees. The Government of Karnataka in its order dated 29.09.1994 has clearly stated that the Gazette Notification in respect of regularization of the above said engineers applies to engineers and Diploma engineers only and not to others. Further, it is stated that Mysuru City Corporation, Mysuru is not an '**Industry**' and the 44 workmen claiming through first party Trade Union are not the '**Workmen**' under Industrial Disputes Act, 1947, hence, this Tribunal has no jurisdiction to entertain the present Reference.

5. In fact vide orders dated 04.09.2024, this Tribunal recorded a finding that Mysuru City Corporation (MCC) is an industry and the 44 workers represented by the Trade Union are the workmen and the dispute between the parties is an industrial dispute, hence, the

question of maintainability will be considered at the time of adjudication of the present Reference on merits. Accordingly, the evidence of one of the workmen of the first party (No.26) has been recorded as WW.1. At this stage, the learned counsel for the second party No.2 to 4 has submitted that the pleadings of the No.2 to 4 of second party on the point of jurisdiction shall be treated as Preliminary Issue, hence it is just and necessary to frame Additional Issues and findings will have to be recorded thereon. Therefore, after hearing both parties, this Tribunal has framed 3 Additional Issues on 02.12.2024. Out of which, the issue No.2 and 3 reads as under:

**2. Whether the No.2 to 4 of second party further prove that Mysuru City Corporation is 'not an industry' and the persons in claim statement are 'not the workmen' of Mysuru City Corporation, hence their service conditions cannot be regularized by this Tribunal?**

**3. Whether the No.2 to 4 of second party further prove that this Tribunal has no jurisdiction to entertain the claim application of the first party as Mysuru City Corporation**

**does not come U/s.2(j) of Industrial Disputes Act,1947?**

6. Out of the above 2 Additional Issues, this Tribunal has treated the Additional Issue No.3 as Preliminary Issue.

7. I have heard the arguments on both sides and perused the relevant provisions of the Industrial Disputes Act, 1947 and documents and citations produced by both parties.

8. My answer to the preliminary issue (Additional Issue No.3) is in the **Negative** for the following:

**REASONS**

9. This is a Reference made by the Government of Karnataka for adjudication of the dispute between the parties about regularization of 44 workmen of second party No.2. Before considering the facts in issue, let us have a momentary look on the relevant provisions of Industrial Disputes Act. Section-2(j) of Industrial Disputes Act 1947 deals with '**Industry**', Section 2 (k) of the said Act deals with an '**Industrial dispute**' and Section 2(s) of the said Act deals with the '**Workman**'. According to Section 2(j) of I.D.Act, '**Industry**' means, any systematic activity carried on by the co-operation between an employer and his workmen regardless whether they are

employed directly or through a contractor for production and supply of goods or services. Further, according to Section 2(j) of I.D.Act, the **workman** means, any person employed in an industry to do any skilled, unskilled, manual, supervisory, technical, clerical or operational work for hire or reward, whether the terms of employment be express or implied. Further, as per Section 2(k), Industrial dispute means, any dispute or difference between employers and employees, between employers and workmen, between workmen and workman, which is in connection with employment, non-employment, terms of employment or with conditions of labour, of any person.

10. In present case, the documents produced by the second party shows that vide orders dated 06.05.2005 in proceedings bearing No.KN/PF/SRO/MYS/ENF/153/2005, U/s.7-A of EPF & MP Act, 1952, the Assistant Provident Fund Commissioner, Mysuru has opined that the workers working as Valvemmen, Linemen, Electrician, Fitter, Pump Operators at Vani Vilas office, Kuvempunagar MCC and other places of Mysuru in water treatment units are the employees of Mysuru City Corporation. Further, in Ref.No.08/2001, then Presiding Officer of this Tribunal vide Award dated 31.01.2004 on identical dispute

has opined that the daily wages employees of Mysuru City Corporation are the workmen. Further, the proceedings of MCC., Mysuru dated 12.12.2012 shows that the Executive Engineer of MCC, Mysuru has passed an order in favour of the on contract basis workmen, working under water treatment unit in respect of their service conditions under the scheme: 'equal pay for equal work'. Therefore, prima-facie, there are materials on record to show that the workers claiming through the first party Trade Union herein are the workmen. The learned Representative of the first party workmen has produced a decision of Hon'ble High Court of Karnataka reported in **Manu/KA/5491/2022 in W.P.No. 28392/2018 (L-RES) dated 06.12.2022-(Tumkuru City Corporation V/s. Tumakuru Paura Karmikara Sangha ® & others)**, wherein it was held that,

**".....No doubt, as per Section 2(k) of I.D.Act, industrial dispute has to be between the employer and its workmen. Herein, the appellant is denying the respondents to be its workmen. On the other hand, respondents are asserting that they continue to be the employees of the appellant company. This itself would be a "dispute" which has to be**

**determined by means of adjudication. Once these respective contentions were raised before the Labour Department, it was not within the powers of the Labour Department/appropriate Government decide this dispute and assume the adjudicatory role as its role is confined to discharge administrative function of referring the matter to the Labour Court/Industrial Tribunal. Therefore, this facet of dispute also needs to be adjudicated upon by the Labour Court. It cannot, therefore, be said that no dispute exists between the parties. ....”**

It is very clear from the above that, the dispute between the parties is an industrial dispute and it has to be adjudicated by this Tribunal. It is to be noticed that the above Judgment was rendered in a case of Tumkuru City Corporation. It is applicable to Mysuru City Corporation (MCC) also. Therefore, as per amended provisions of Section 2(j) of ID.Act, the MCC is an industry. As per the judgment of Hon'ble Supreme Court of India in **Umadevi's** case **(2006(4) SCC(1))**, it is for this Tribunal to decide whether the first party workmen are entitled to be regularized in their service or not. From the pleadings and the documents produced by the first party

Trade Union, it appears that there are prima-facie materials to show that there is an industrial dispute to be adjudicated by this Tribunal. Therefore, I record my answer to the Preliminary Issue (Additional Issue No.3) in the **Negative**. In view of the present findings, the Additional Issue No.2 framed by this Tribunal does not survive for determination. All the points referred by the Government of Karnataka and Additional Issue No.1 framed by this Tribunal could be adjudicated on merits after the evidence of both parties. With above observations, I proceed to pass the following-

#### **ORDER**

**This Tribunal has got jurisdiction to entertain this Reference for adjudication. Further, the first party Trade Union members are the 'workmen' under second party No.2. Similarly, second party No.2 is an 'industry' and the dispute between the parties is an 'industrial dispute' to be adjudicated by this Tribunal.**

**Accordingly, The Additional Issue No.2 framed by this Tribunal does not survive for consideration. Hence, same is deleted.**

**Consequently, the first party  
Trade Union is permitted to proceed  
with the case in accordance with law.**

(Dictated to the Stenographer directly on computer and typed by her over the computer directly, corrected, print out taken, signed and pronounced by me in the open court on this the **13<sup>th</sup> day of February 2025**)

**(RUDOLPH PEREIRA)**  
Presiding Officer,  
Industrial Tribunal, Mysuru