

IN THE COURT OF INDUSTRIAL TRIBUNAL BANGALORE

This the 23rd day of September, 2024

**Present: Sri. Jagadeeswara.M,
B.Com,LL.B.**

Presiding Officer

SERIAL APPLICATION No.561/2022

(in ID No.13/2013)

The Divisional Controller
KKRTC, Bellari Division,
Bellari

..... APPLICANT

(By Sri.B.L.Sanjeev Advocate)

Vs.

Sri.Mainuddin
S/o Sri.M.D.Yusuf Ali
Mudabi Village (Post)
Basava Kalyana Taluk,
Bidar District-585419.

..... OPPOSITE PARTY

(ABSENT)

ORDER

This application is filed under section 33(2)(b) of the Industrial Disputes Act 1947 (In short I.D. Act) seeking approval for the order dated 30-09-2022 passed in dismissing opposite party from the service.

2. Notice issued to the opposite party through RPAD was served. But opposite party has failed to appear before this authority to contest this application.

3. On the basis of the materials available on record, the following points would arise for my consideration:

1	Whether applicant has made out grounds to grant approval for the order dated 30-09-2022 in dismissing opposite party from the service?
2	What order?

4. Subject matter of the order dated 30-09-2022 is marked as Ex.A-1. Copy of cheque No.752491 dated 30-09-2022 for Rs.23,135/- drawn in favour of opposite party sent by the applicant to the opposite party towards payment of wage of one month is marked as Ex.A-2. Original RPAD receipt dated 30-09-2022 is marked as Ex.A-3.

5. I have heard arguments of learned advocate for applicant. I have carefully gone through the materials on record.

6. My findings to the above points are as under:

Point No.1 : Affirmative.
Point No.2 : As per final order
for the following:

REASONS

7. **POINT NO. 1:-** It is stated in the application that opposite party was working as Driver cum conductor holding

B.No.5503 at Koppal Depot of the applicant Corporation. He remained absent to the duty unauthorisedly from 20-11-2020 without submitting leave application and without taking prior permission from his superiors. Depot Manager, Kurugodu Depot submitted report on 07-12-2020 to the Disciplinary Authority relating to the unauthorised absence of the opposite party to the duty. Disciplinary authority issued Call notice dated 10-03-2021 to opposite party calling upon him to report to the duty. But he did not report to the duty. Disciplinary authority issued Article of charge dated 24-03-2021 along with statement of imputation,, list of documents and witnesses. Opposite party failed to submit his reply. Disciplinary Authority through order dated 18-05-2021 appointed Enquiry Officer and Presenting Officer to conduct domestic enquiry against opposite party. Enquiry Officer, conducted enquiry in accordance with KSRTC Servants (C&D) Regulations 1971 by issuing notices through RPAD Opposite party failed to appear and participate in the enquiry proceedings. After concluding enquiry, Enquiry officer submitted enquiry report to the Disciplinary Authority on 15-06-2022 holding that charge levelled against the opposite party is proved. After receipt of enquiry finding, Disciplinary Authority issued show cause notice dated 20-06-2022 to opposite party with enquiry findings and history sheet, for which he failed to submit his reply. Disciplinary Authority after verification of records, through order dated 30-09-2022

dismissed opposite party from the service. This order of dismissal was sent to the opposite party with a cheque drawn for one month wage, through RPAD. Hence, this application is filed seeking approval for the said dismissal order dated 30-09-2022 passed against opposite party.

8. As noted above, dismissal order dated 30-09-2022 is marked as Ex.A-1. Copy of cheque No.752491 dated 30-09-2022 for Rs.23,135/- drawn in favour of opposite party sent by the applicant to the opposite party towards payment of wage of one month is marked as Ex.A-2. Original RPAD receipt dated 30-09-2022 is marked as Ex.A-3

9. As could be seen from the dismissal order dated 30-09-2022 at Ex.A.1, Enquiry Officer has conducted enquiry by giving sufficient opportunity to the opposite party by issuing notices through RPAD. Opposite party failed to appear and participate in the enquiry proceedings. After concluding the enquiry, Enquiry officer submitted his report to the disciplinary authority holding that charges levelled against opposite party is proved.

10. As noted above, notice issued to the opposite party is served. But opposite party has failed to appear before this authority to contest this application. Therefore, there are no reasons to disbelieve the say of the applicant that just and fair enquiry was conducted by giving sufficient opportunity

to the opposite party and by following principle of natural justice and unauthorised absence of opposite party to the duty is proved. It is found from the dismissal order at Ex.A-1 that even previously on 15 occasion opposite party remained absent, for which he faced penalties. Despite such penalties faced, he again remained absent for duty from 20-11-2020. Therefore, it is found from the materials on record that domestic enquiry has been held in accordance with law and procedure and by following the Principles of Natural justice and by considering enquiry report and other antecedent circumstances of the opposite party, disciplinary authority has passed dismissal order on 30-09-2022 and forwarded copy of dismissal order along with the cheque drawn in favour of opposite party towards one month wage as per the proviso to sub section (2) of Sec.33 of I.D.Act 1947.

11. Hence, it is clear that applicant has complied with the provisions of Section 33(2)(b) of the Industrial Disputes Act. Therefore, there are grounds to grant approval to the dismissal order dated 30-09-2022. For these reasons this Point No.1 is answered in the Affirmative.

12. **Point No.2:-** For the above discussed reasons and Affirmative finding to Point No.1, I proceed to pass following order:

ORDER

Application filed under Section 33(2)(b) of Industrial Disputes Act is allowed and order dated 30-09-2022 passed by the applicant in dismissing opposite party from the service is approved.

(Dictated to the Stenographer Grade-1 on computer, edited print taken by him corrected, then pronounced by me in open court on this the **23rd day of September 2024.**)

(Jagadeeswara.M)

Presiding Officer,
Industrial Tribunal, Bangalore.

ANNEXURE**List of witness examined for the applicant:**

NIL

List of documents marked for applicant:

Ex.A.1:	Copy of Dismissal order dated 30-09-2022
Ex.A.2:	Copy of Cheque No.752491 dated 30-09-2022
Ex.A-3	Original RPAD Receipt dated 30-09-2022

List of witness examined and documents marked for opposite party:

Nil.

(Jagadeeswara.M)

Presiding Officer,
Industrial Tribunal, Bangalore.