

IN THE COURT OF INDUSTRIAL TRIBUNAL BANGALORE

This the 11th day of July, 2023

**Present: Sri. J.N.SUBRAMANYA,
B.A.,LL.M.
Presiding Officer**

SERIAL APPLICATION No. 595/2022
(in ID No.13/2013)

The Divisional Controller,
BMTCL, Central Zone Central office,
Bengaluru.

..... APPLICANT

(By Sri. B.L.S., Advocate)

Vs.

Sri. Mohan Babu. B.V
S/o Venkataramanappa,
R/at Peresandra Village & Post,
Chikkaballapura District.

..... OPPOSITE PARTY

(Absent)

ORDERS

On 31.10.2022, the applicant filed application under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of the order passed dismissing the opposite party from service.

2. Notice of the application sent through RPAD served on opposite party, however till date the opposite party remained unrepresented.

3. On 18.03.2023 the applicant has produced four documents marked at Ex.A.1 to A.4. I heard the arguments submitted on behalf of the applicant and perused the records. On the basis of the materials available on record, the following points would arise for my consideration:

1. Whether the applicant has made out sufficient ground to allow application filed under Section 33(2)(b) of the Industrial Disputes Act

2. What order?

4. On the basis of materials on record, my findings on the above points are as under:

Point No.1: Affirmative.

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

REASONS

POINT NO. 1:-

5. In the application, the applicant has stated that the opposite party being a driver cum conductor bearing B.No. 4160 at Depot-25 of the applicant Corporation, without

taking prior permission from his superiors or submitting leave application remained unauthorisedly absent for duties from 01.08.2020, the Depot Manager, through letter dated 18.09.2020 reported the absence of the opposite party to the Disciplinary Authority, who issued call notice dated 06.10.2020 to the opposite party insisting to report for duty, Depot Manager reported to the superiors of the corporation on 03.11.2020 along with history sheet, then the Disciplinary Authority issued article of charges dated 18.01.2021 along with the enclosures through RPAD, for which the opposite party failed to submit reply, then the Disciplinary Authority through order dated 31.08.2021 appointed Enquiry Officer and Presenting Officer to conduct domestic enquiry.

6. The Enquiry Officer conducted the enquiry from 16.09.2021 to 31.08.2022 in accordance with KSRTC Servants (C&D) Regulations 1971, submitted enquiry report to the Disciplinary Authority holding that the charges levelled against the opposite party are as proved, after receipt of the enquiry findings, the Disciplinary Authority

issued show cause notice dated 17.09.2022 along with findings of the Enquiry Officer to the opposite party, for which the opposite party failed to submit reply, then the Disciplinary Authority after verification of records, through order dated 31.10.2022 dismissed the opposite party from service, sent copy of dismissal order along with a cheque drawn for one month salary in favour of the opposite party through RPAD and forwarded the application.

7. Ex.A.1 is the copy of the dismissal order dated 31.10.2022. Ex.A.2 is the Postal acknowledgement card bearing address of the respondent. Ex.A.3 is the copy of the cheque bearing No.180547 dated 31.10.2022 for Rs.26,293/- drawn in favour of the opposite party towards one month wages and Ex.A.4 is the RPAD register.

8. As referred above, in this case, even though the opposite party received the notice of application neither appeared before this authority nor participated in the proceedings. As on today there are no reasons to disbelieve the evidence placed by the applicant about misconduct of

absenteeism by the opposite party, conducting of departmental enquiry by providing sufficient opportunity to the opposite party to defend the case, participation of opposite party during enquiry, findings recorded by the Enquiry Officer, passing of the dismissal order, sending of copy of dismissal order along with a cheque drawn for one month salary to the opposite party through RPAD.

9. Hence it is clear that the applicant has complied the provisions of Section 33(2)(b) of the Industrial Disputes Act. Hence, I have inferred that the applicant has made out sufficient ground to allow the present application. Hence, I answer Point No.1 in Affirmative and pass the following:

ORDER

The application filed under Section 33(2)(b) of Industrial Disputes Act is allowed.

(Dictated to the Stenographer on computer, edited print taken by him corrected, then pronounced by me in open court on this the 11th day of July, 2023).

(J.N.SUBRAMANYA)
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 the dismissal order dated 31.10.2022
Ex.A.2:	Postal acknowledgement card
Ex.A.3:	Copy of cheque dated 31.10.2022 for one month salary.
Ex.A.4:	RPAD register

List of witness examined and documents marked for opposite party: Nil.

(J.N.SUBRAMANYA)

Presiding Officer,
Industrial Tribunal, Bangalore.