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KARNATAKA HC ON REINSTATEMENT POST UNAUTHORISED LEAVE

A. Introduction

In *Karnataka Power Transmission Corporation Limited* case,¹ the Division Bench (**DB**) of the Karnataka High Court (**HC**), on October 30, 2023 upheld the decision of the Single Bench (**SB**) that a workman's absence due to depression, not being wilful, does not constitute sufficient cause for dismissal. Therefore, the workman must be reinstated.

B. Brief Facts

1. The respondent, S. Kiran (**Kiran**) was a permanent employee of Karnataka Power Transmission Corporation Limited (**KPTCL**) since January 2008.
2. KPTCL terminated Kiran in January 2014 for unauthorized leave of 632 days in 2010-13.
3. Kiran petitioned before the Labour Court (**LC**), who found in favour of Kiran. Allowing the petition, it ordered his reinstatement without back wages but with continuity of service.
4. Vide a Writ Petition (**WP**), KPTCL approached the SB. Dismissing the WP, the SB held that Kiran's absence was not wilful and due to compelling circumstances. Therefore, there was no sufficient cause of his dismissal.
5. Aggrieved, KPTCL filed Writ Appeal (**WA**) before the DB. The question before the DB was whether Kiran's absence for 632 days was wilful and, thus, KPTCL had sufficient cause to dismiss him.

C. Court's Judgment & Reasoning

The DB:

1. Dismissed the WA, affirming the SB's decision to reinstate Kiran, as there were compelling reasons for his absence.
2. Noted the ample evidence considered by the LC and subsequently reviewed by the SB, which affirmed that Kiran was genuinely suffering from depression, and his absence was not driven by an intention to cause inconvenience to KPTCL.
3. Observed that KPTCL's contentions did not assert the employment of a new incumbent as Kiran's replacement. Consequently, since there was no sufficient cause for dismissal, it

¹ *Karnataka Power Transmission Corporation Limited vs. S. Kiran* (30.10.2023 – Karnataka HC) : WA 217 of 2013.

concurred with the LC's order for reinstatement.

4. Opined that the WA is not admissible, in view of the Supreme Court holding that an intra-court appeal cannot be made against the decisions of SB when those decisions are passed under Article 227 of the Constitution.²

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² *Tammanna vs. Renuka*, 2009 SCC OnLine Kar 123.

Article 227 states that every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.