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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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1

The Management of Ford India Private Ltd. Vs.
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(Crl.) No.14740 Of 2024)]



Is past conduct of an employee relevant in cases of sexual harassment-related termination?

CONTEXT: The Management of Ford India Private Limited (petitioner) terminated employee R. Arun (second respondent) after an internal enquiry found him guilty of sexual harassment against two female co-workers. The company then filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947. The Assistant Commissioner of Labour (first respondent) upheld the fairness of the enquiry and prima facie evidence against the workman but rejected the approval petition solely because the company failed to consider the workman's past conduct as per Clause 25(g) of the Certified Standing Orders. This rejection was challenged by the management via a writ petition.

① The Madras High Court quashed the Assistant Commissioner of Labour's order dated 29.09.2014, and allowed the writ petition, deeming the order "perverse".

② The Court held that for grave misconduct like sexual harassment, which is an "offence" and "anti-social activity," the gravity of proved charges suffices for a major penalty.

③ Consideration of past conduct is not required, particularly for employees with short service.

④ The Court stressed that "misplaced sympathy" in such cases is unconstitutional as it undermines equality and discourages women from working. Discipline and decorum in workplaces are paramount.

**THE MANAGEMENT OF
FORD INDIA PRIVATE
LTD. VS. THE
ASSISTANT
COMMISSIONER OF
LABOUR
(CONCILIATION) AND
R. ARUN
[WP NO.2534 OF 2015]**

**SECTION 33(2)(b) OF
THE INDUSTRIAL
DISPUTES ACT, 1947**

**CLAUSE 25(g) OF THE
CERTIFIED STANDING
ORDERS**

Are workers in a contractor-run statutory canteen employees of the main Company?

CONTEXT: The dispute originated from an industrial claim by workmen of a statutory canteen, operated by Chefair (Respondent No. 3), a unit of Hotel Corporations of India Ltd. (HCI, Respondent No. 2), a wholly-owned subsidiary of Air India (Respondent No. 1). The canteen was maintained under a statutory obligation of the Factories Act, 1948. The Central Government Industrial Tribunal held the workmen were Air India employees. However, the Delhi High Court subsequently set aside this award, ruling they were not, as HCI contractually ran the canteen. The workmen appealed, asserting they were deemed employees of Air India due to the statutory obligation.

① The Supreme Court dismissed the appeals, concluding that workmen engaged by a contractor in a statutory canteen are considered employees of the principal establishment only for the purposes of the Factories Act, 1948, and not for all other purposes.

② For broader employment rights like regularization, the test of absolute and effective employer-employee control must be satisfied. The Court found that Air India did not exercise such absolute control over the canteen workers, as HCI (a distinct legal entity) managed appointments, dismissals, and wages.

③ The doctrine of piercing the corporate veil was not applied, as mere ownership and supervisory control, or compliance with statutory obligations (e.g., regarding menus, subsidies), were insufficient to prove Air India created HCI as a sham to avoid liability.

**BALWANT RAI SALUJA
& ANR. VS. AIR INDIA
LTD. & ORS.
[CIVIL APPEAL NOS.
10264-10266 OF 2013]**

**SECTIONS 2(I), 46 OF
THE FACTORIES ACT,
1948**

**RULES 65-70 OF THE
DELHI FACTORY RULES,
1950**

**SECTIONS 2(47), 4 OF
THE COMPANIES ACT,
1956**

Does the PwD Act, 1995 mandate reservation in promotions for persons with disabilities regardless of prior identification of posts or specific rules, and can such benefits be claimed by those not initially appointed under the PwD quota?

CONTEXT: The respondent, Leesamma Joseph, was appointed as a Typist/Clerk in the Police Department in 1996 on compassionate grounds, having a permanent disability of 55%. She sought promotion as a Senior Clerk and Cashier, claiming entitlement to reservation in promotion under the 1995 Act due to her physical disability. The Kerala Administrative Tribunal dismissed her claim, stating the 1995 Act did not provide for reservation in promotion. The High Court of Kerala set aside the Tribunal's order, granting relief based on subsequent Supreme Court judgments that held reservation applicable in promotion. The State of Kerala appealed, arguing that the respondent's entry was not under the 1995 Act's disability quota and that State rules did not provide for promotion reservation.

The Supreme Court dismissed the appeal, upholding the High Court's decision. The Court definitively ruled that the 1995 Act mandates reservations in promotions for persons with disabilities, clarifying that Sections 32 and 33 must be read with Section 47 to ensure equal opportunity for career progression.

It was held that reservation is not dependent on prior identification of posts; such identification is a prerequisite that cannot frustrate appointment or promotion. The absence of specific rules for reservation in promotion does not defeat the rights of PwD, as the right flows directly from the legislation.

Furthermore, the Court stated that a PwD can claim promotion benefits regardless of their initial mode of entry (e.g., compassionate appointment) or whether they acquired disability after joining service, as the source of recruitment should not make a difference.

The Court directed the State of Kerala to implement judgments providing for reservation in promotion in all posts after identifying said posts within three months.

**THE STATE OF KERALA
& ORS. VS. LEESAMMA
JOSEPH
[CIVIL APPEAL NO. 59
OF 2021]**

**SECTIONS 32, 33, 47
OF THE PERSONS WITH
DISABILITIES (EQUAL
OPPORTUNITIES,
PROTECTION OF
RIGHTS AND FULL
PARTICIPATION) ACT,
1995**

**SECTIONS 34, 20 OF
THE RIGHTS OF
PERSONS WITH
DISABILITIES ACT,
2016**

Can the State detain someone in the name of public order when ordinary criminal laws are enough?

CONTEXT: Rajesh, the appellant's husband and operator of 'Rithika Finance', was preventively detained by the District Magistrate, Palakkad, on June 20, 2024, under Section 3(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007, declaring him a 'notorious goonda'. This declaration was based on multiple cases, including offenses under the Kerala Money Lenders Act, 1958, the Kerala Prohibition of Charging Exorbitant Interest Act, 2012, the Indian Penal Code, 1860, and the SC/ST Prevention of Atrocities Act, 1989. The High Court of Kerala dismissed the appellant's writ petition challenging the detention, holding that the detaining authority need not consider potential acquittals, and courts in writ jurisdiction do not sit in appeal against such decisions, noting procedural compliance. The appellant contended that Rajesh was on bail in all cases and complying with conditions.

① The Supreme Court set aside the detention order dated June 20, 2024, and the impugned High Court judgment dated September 4, 2024.

② The Court found the exercise of power under Section 3 of the Act not justified in law. It reiterated that preventive detention is an extraordinary power to be used sparingly and is an exception to Article 21 of the Constitution.

③ The Court emphasized the crucial distinction between 'law and order' and 'public order', concluding that the detenu's actions, as described, did not fall under a public order situation, and the detaining authority failed to assign reasons demonstrating how they affected public order.

④ Furthermore, despite allegations of bail condition violations, the State had not filed any application for cancellation of bail in the competent courts, which is the appropriate remedy instead of resorting to the extraordinary measure of preventive detention.

DHANYA M VS. STATE
OF KERALA & ORS.
[2025 INSC 809,
CRIMINAL APPEAL
NO.2897 OF 2025
(ARISING OUT OF SLP
(CRL.) NO.14740 OF
2024)

SECTIONS 3, 7, 12 OF
THE KERALA ANTI-
SOCIAL ACTIVITIES
(PREVENTION) ACT,
2007

KERALA MONEY
LENDERS ACT, 1958

KERALA PROHIBITION
OF CHARGING
EXORBITANT INTEREST
ACT, 2012

SC/ST PREVENTION OF
ATROCITIES ACT, 1989