

**IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA**

DATED THIS THE 6TH DAY OF JUNE, 2013

BEFORE

THE HON'BLE MR.JUSTICE RAM MOHAN REDDY

W.P.No.81898 OF 2009 (L-K)

BETWEEN:

1. NEKRTC THROUGH
MANAGING DIRECTOR
SARIGE SADAN
MAIN ROAD, GULBARGA

2. NEKRTC DIVISIONAL CONTROLLER
RAICHUR DIVISION

NORTH EAST KARNATAKA STATE ROAD
TRANSPORT CORPORATION
BOTH PETITIONERS
REP. BY ITS CHIEF LAW OFFICER
SARIGE SADAN, GULBARGA

... PETITIONERS

(BY SRI SUDHIRSING R. VIJAPUR, ADVOCATE)

AND:

HUSSAINSA
S/O AMHAD SAB DODDAMANI
AGE: 42 YEARS
OCC: NIL (EX-HELPER)
SINDHANOOR DEPOT
R/O B.B.INGALGI, TQ. SINDAGI
DIST. BIJAPUR

... RESPONDENT

(BY SRI P. VILAS KUMAR, ADVOCATE)

THIS WRIT PETITION FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE AWARD OF LABOUR COURT, GULBARGA, DATED 28.08.2008 IN KID NO.73/2005 (ANN-E.)

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

A Public Road Transport Corporation aggrieved by the award dated 28.08.2008 in KID No.73/2005 on the file of the Presiding Officer, Labour Court, Gulbarga, directing reinstatement with continuity of service without back wages has presented this petition.

2. Admittedly, the termination of service of the respondent-Helper-A by order dated 08.11.2004 is not preceded by permission under Section 33 (2) (b) of the Industrial Disputes Act, 1947 (for short '*the Act*') in I.D.No.148/2005 on the file of the Industrial Tribunal, Bangalore and in the light of the five Judge Bench

decision in **JAIPUR ZILLA SAHAKARI BHOOMI VIKAS BANK LTD. v. RAM GOPAL SHARMA**¹, observing that the order of termination from service in violation of Section 33 (2) (b) of the Act is void and inoperative. The Labour Court was justified in allowing the claim petition as the petitioner-Corporation did not admittedly obtain permission under Section 33(2)(b) of the Act, before terminating the service of the respondent by order dated 08.11.2004 when conciliation proceeding over charter on demands of employees of the Road Transport Corporation was pending. Hence, this writ petition deserves to be dismissed and is accordingly **dismissed**.

**Sd/-
JUDGE.**

NB*

¹ AIR (2002) 2 SCC 244