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2025 INSC 1467

Reportable

**IN THE SUPREME COURT OF INDIA**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. OF 2025**
(Arising out of Special Leave Petition (Civil) No. 3682 of 2025)

**SRINIBAS GORADIA ....Appellant(s)**

**Versus**

**ARVIND KUMAR SAHU & ORS. ....Respondent(s)**

# JUDGMENT

**N.V. ANJARIA, J.**

Leave granted.

1.1 Interlocutory Application No.266331 of 2025 is allowed granting permission to produce the additional documents.

2. Whether or not the appellant herein is a 'workman' within the meaning and concept of definition under Section 2(s) of the Industrial Disputes Act, 1947, is the singular question that arises in this appeal, which would in its answer, guide the outcome of the appeal.

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2.1 The aggrieved appellant has addressed challenge to judgment and order dated 30.01.2024 passed by the High Court of Orissa in Writ Petition (Civil) No.24351 of 2022, whereby the High Court set aside the judgment and award dated 16.04.2022 of the Labour Court, Jeypore, District Koraput, Orissa in Industrial Case No.02 of 2019. The Labour Court had allowed the reference of the appellant setting aside the termination order dated 22.04.2018 as illegal, further directing the respondent-management to reappoint the appellant with full back wages.

2.2 Upturning the view of the Labour Court, the High Court held that the appellant did not fall within the meaning of 'workman' under Section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act').

3. Before adverting to the moot question, basic facts may be outlined. The appellant was appointed as cashier in M/s Sai International Hotels Private Limited, Rayagada, on 09.03.2025. The appellant stated that obeying the master-servant relationship, he use to carry out the directions of the respondent employer, that he received a letter of appreciation from the management, and was also receiving employee's provident fund and State insurance benefits as a workman. It was stated that after long service of 12 to 13 years, his salary was suddenly stopped by the employer.

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3.1 When inquired through right to information process, the appellant received a letter dated 09.11.2018 in which it was stated by the respondent-employer that his services were already terminated from 22.04.2018 and was offered one month's notice pay. Since nothing yielded even after request- letters and correspondences with the management, the appellant invoked jurisdiction of the Labour Court by filing Reference on 20.07.2019. The terms of reference before the Labour Court was whether the termination letter dated 09.11.2018 issued to the appellant by the respondent was legal.

3.2 The first party-employer filed its written statement before the Labour Court which is on record along with production of additional documents. In the written statement, the first party-employer sought to raise the defence that the Reference was not maintainable inasmuch as the dispute raised was not within the compass of 'industrial dispute' and that the appellant was not a 'workman' within the meaning of definition under the Act. It was contended that the management took over hotel business in the name of M/s Sai International Hotels Private Limited from the previous management as the erstwhile management was not in good financial condition.

3.2.1 As per the say of the first party-employer, the appellant used to work as Front Office Executive and was entrusted the work of Receptionist and supervising the room

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boys and since his duty was supervisory in nature, he was not 'workman' to be entitled to seek the industrial reference.

3.2.2 In the rejoinder before the Labour Court, the appellant asserted that he was not a supervisor nor had been assigned any supervisory or administrative duties as such. The appellant stated that he was under control of the Managing Director of M/s Sai International Hotels Private Limited and that the Managing Director used to instruct about the work to General Manager and that the appellant was working by carrying out the directions of his superior. It was denied that along with the termination order, one months' salary, as claimed, was paid by the management.

3.3 The Labour Court concluded that the dispute between the parties before it was in the nature of 'industrial dispute' within the meaning of Section 2(j) of the Act, that the hotel business run by the respondent-management was 'industry' and also that the appellant was covered within the definition of 'workman' under Section 2(s) of the Act. The Labour Court recorded the finding that the appellant worked for more than 240 days in a year rendering in continuous service. It was concluded that termination of the appellant was in breach of provisions of Section 25(F) of the Act, entitling the appellant-workman to be reinstated with back wages.

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3.3.1 While holding the appellant to be a 'workman', the Labour Cour recorded that though it was the case of the first party-employer that the second party was not a 'workman' and had been doing supervisory work, however the first party failed to established the same. It was held that it is not the designation of the employee, but the nature of duties that would determine whether the employee concerned is a 'workman'.

3.4 The judgment and award of the Labour Court came to be challenged by the respondent-employer by filing Writ Petition before the High Court. The High Court was of the view that the contention raised by the management-employer in its paragraph 10 of its written statement was not properly examined by the Labour Court that the employee was in a supervisory capacity. The High Court relied on the decision of this Court in ***Syed Yakoob*** v. ***K.S. Radhakrishnan***[1], for observations in paragraphs 7 and 8 therein, and further on the observations in paragraph 7 of the decision of this Court in ***National Engineering Industries Ltd.*** v. ***Shri Krishan Bhageria***[2] to hold that since the appellant could be said to be engaged in supervisory or managerial work, he could not be treated as 'workman'. The High Court further relied on the contents of letter dated 21.05.2019 written by the management mentioning that the

[1] AIR 1964 SC 477
[2] AIR 1988 SC 329

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appellant was an employee of the old management and that he was appointed as Manager or Front Office Supervisor.

4. Heard learned counsel for the appellant Mr. Rajdipa Behura and learned counsels for the respondents Mr. Kedar Nath Tripathi and Mr. Aditya Narayan Tripathi, at length.

5. As the controversy is centripetal to the issue as to whether the appellant is 'workman', the definition of 'workman' contained in Section 2(s) of the Industrial Disputes Act may be looked at, at the outset. It is reproduced hereunder,

> '2 [(s) ''workman'' means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—
>
> (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
>
> (ii) who is employed in the police service or as an officer or other employee of a prison; or (iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws

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> wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]'

5.1 Analysing the above quoted definition of "workman", it states that a workman means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for higher reward. The terms of employment of such a person may be express or implied. Workman includes any person who has been dismissed, discharged, or retrenched in connection with or as a consequence of any dispute. Sub-clause (iii), however, does not treat a person to be a workman who is employed mainly in a managerial or administrative capacity. Sub-clause (iv) does not include any person who is employed in a supervisory capacity and draws wages exceeding a particular monetary limit or that such person, by virtue of his duties attached to his job or by reason of powers vested in him, discharges functions which are mainly of a managerial nature.

5.2 It would be useful to survey the decisions on the aspect as to when an employee would fall within aforesaid definition to become 'workman'. In ***Lloyds Bank Limited, New Delhi*** v. ***Panna Lal Gupta and Others***[3] this Court observed that while dealing with the issue, the courts

[3] AIR 1967 SC 428

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would generally consider the essence of the matter without attaching undue importance to the designation of the employee or the name assigned to the class to which the employee belonged. The kind of primary duties performed by the employee would be the right test to be applied, it was held. If the employee is engaged in the clerical or manual work, he would be a 'workman', whereas if he is a supervisor, in that eventuality would not fall within the concept of 'workman'.

5.3 The decisions of this Court may firstly be considered, which would throw light as to what constitutes duties of supervisory nature as against the clerical or manual work. In order that an employee acquires supervisory capacity, he should be invested with right to supervise the work of the subordinate employees to the logical end. Supervisory function would denote independent right to exercise control on any group of workers. This principle was highlighted in ***A.R. Nataraja Ayyar and Trichy-Srirangam Transport Co. Ltd***[4] wherein the employee who was assigned the work of supervising the conductors and drivers so as to verify whether they were discharging the duties properly. The Checking Inspector was required to send his daily check-record to the office. This Court held that in the nature of work performed by the employee there was a definite element of supervisory finality.

[4] 1955 I LLJ 608

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5.3.1 In **United Commercial Bank, Ltd.** v. **L.S. Seth**[5] this Court held that the cashier of the banking company who was responsible for all the acts of commission and omission of the employees of the cash department and he who was controlling the work of the cash department done by the other employees, was doing a purely supervisory work, not to be treated as 'workman'. It was further observed that in order that a person is treated as supervisor or officer, such person should occupy a position of command with decision making power so as to exercise his authority without the sanction of the management or other supervisor. In ***All India Reserve Bank Employees' Association and Others*** v. ***Reserve Bank of India and Others***[6] this Court observed referring to the types of employee involved in the case, 'these employees distribute work, detect faults, report for penalty, make arrangements for filling vacancies, to mention only a few of the duties which supervisory and not merely clerical'.

5.4 A Calcutta High Court decision in ***Mcloed & Co.*** v. ***Sixth Industrial Tribunal, West Bengal and Others***[7] reserves a reference for its exposition to explain distinction between supervisor and clerical duties in the context of deciding whether an employee is workman within the meaning of the statutory definition under the Act. It was stated that in order to determine the category of service,

[5] 1954 II LLJ 457
[6] AIR 1966 SC 305
[7] 1958 Calcutta 273

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different words like 'supervisory, managerial, administrative', the common notions cannot be imported to interpret those terms. These expressions, it was stated has not rigid frontiers and too much subtlety should not be used in trying to precisely defined where supervision ends, management begins or administration commences.

5.4.1 It was emphasised that the approach should be practical, and not theoretical. It was clearly stated that the supervisor need not be a manager. A supervisor can be considered to be a workman so long as he discharges clerical work without any disciplinary power. The decision of the Calcutta High Court was referred to with approval of this Court in ***National Engineering Industries Ltd.***[2]

5.5 In ***National Engineering Industries Ltd.*** **(supra)**, this Court referred to the *Black's Law Dictionary, Special Deluxe, Fifth Edition* (Page 1290) to explain the term 'Supervisor', thus,

> 'In a broad sense, one having authority over others, to superintend and direct.
>
> The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the

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exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.'

5.6 Power of effective supervision, independent exercise of authority, power to issue command, to have subordinate staff, etc. are the basic traits which could make an employee a supervisor or manager. At the same time, incidental trappings of supervision while performing essentially clerical or manual work, would not make an employee a 'supervisor'. The employee could still fell within the compass of Section 2(s) of the Act to remain a 'workman'.

5.6.1 In ***Hind Construction & Engineering Co. Ltd.*** v. ***Their Workmen***[8] the Court found that nature of duties performed by the appellant before it showed that the substantial part of the work of the appellant consisted of looking after the security of the factory and its property by deputing the watchmen working under him to work at the factory gate and that the appellant had also the powers to send them to watch towers, to direct them to go to a accompany the visitors of the factory. However, there was no power to appoint which would which would bring the nature of duties outside the purview of supervisory or commanding character. In ***The Punjab Co-operative Bank Ltd*** v. ***R.S. Bhatia (Dead) Through Lrs.***[9] it was held that the accounted was supposed to sign the

[8] AIR 1965 SC 917
[9] AIR 1975 SC 1898: (1975) 4 SCC 696

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salary bills of the staff even while performing the duties of a clerk, which by itself did not make him employee in a managerial or administrative capacity.

5.6.2 The principal was reiterated in ***D.P. Maheshwari*** v. ***Delhi Administration and Others***[10], stating that a supervisor was one who could bind the company to take some kind of decision on behalf of the company. One who was reporting merely as to the affairs of the company and making assessment for the purpose of reporting was not a supervisor. Again in **D.P. Maheshwari vs. Delhi Administration and Ors.**[11]**.** this Court applied the same criteria mainly that an employee is designated as Accounts Officer was workman since he was mainly discharging the duties of clerical nature.

5.6.3 In **Lloyds Bank Limited**[3], it was further observed that in order that a person is treated as supervisor or officer, such person should occupy a position of command with decision making power to exercise his authority without the sanction of the management or other supervisor. In **Lloyds Bank Limited**[3], the question was whether employees were entitled to claim the supervisory allowance on the footing that they were the supervisors and not the 'workmen'. Brining out a reverse situation than obtained in the present case, the stand of the employer was

[10] AIR 1984 SC 153
[11] (1983) 4 SCC 293

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that the three workmen concerned were not supervisors, therefore supervisory allowance would not be payable to them.

5.6.4 While dealing with the issue, this Court delved into kind and nature of the duties performed by those employees to conclude that the duties assigned to them such as checking the ledgers and entries in the subsidiary books, overseeing the vouchers, checking cash balance, preparing monthly reconciliation statements, *etc.* did not suggest the supervisory character. Disapproving the view taken by the Tribunal, this Court observed that the use of the word "checking" cannot introduce an element of supervisory nature which was purely mechanical without bearing supervisor function.

5.6.5 The High Court in impugned order has relied on ***National Engineering Industries Ltd.***[2] to take a view that the appellant was not a 'workman'. In that case after noticing the evidence, this Court observed that the employee concerned was working under the company as an ordinary auditor on a monthly salary and his duties were mainly of reporting and checking up on behalf of the management, however, he had no independent right or authority to take decision as the decision did not bind the company. He was held to be a 'workman' within the meaning of Section 2(S) of the Act and not the supervisor.

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5.7 In the modern-day nature of management, in every industrial organisation the employees of a particular class may be required and also expected to do the work which may have blend of supervision with clerical or manual duties. An incidental performance of supervisory work and vice versa may not become decisive to bring an employee within the meaning of 'workmen' or to get him out of the purview. Nature of duties to be performed by an employee, more often than not would overlap therefore real criteria to judge whether a 'workman' within the meaning of Section 2(S) of the Act is the test what is called 'dominant nature test'. It is the main nature of work assigned to the employee would become decisive.

5.7.1 This Court in **Anand Bazar Patrika (P) Ltd. vs. The Workmen**[12] addressed the issue whether a person was clerk or was working in a supervisory capacity. Applying the criteria that the principal work of clerical nature, fall within Section 2(s)(iv) of the Act. Endorsing to the decision of the labour court, this Court observed that few minor duties of supervisory character cannot convert his office of senior clerical in-charge that of supervisor.

5.7.2 It was observed,

> "…..His principal work was in maintaining and writing the cash book and of preparing various returns. Being the senior-most clerk he was put in charge of the

[12] (1970) 3 SCC 248

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> Provident Fund Section and was given a small amount of control over the other clerks working in the section. He was to allocate work between them, to permit them leave during the office hours and to recommend their leave applications.'' (Para 6)

5.7.3 This Court in **Anand Bazar Patrika (P) Ltd.**[13] relied on its decision in **Burma-Shell Oil Storage and Distributing Company of India, Ltd., Madras** and **Their Employees**[2] pinpointed the relevance of the substantial work consideration,

> 'If a person is mainly doing supervisory work and incidentally or for a fraction of the time also does some clerical work, it would have to be held that he is employed in a supervisory capacity, and conversely; if the main work done is of clerical nature, the mere fact that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity.' (Para 3)

5.7.4 The substantial duty factor again guided this Court in **Ved Prakash Gupta vs. M/s Delton Cable India (P) Ltd.**[14] The appellant was recruited initially as a clerk latter he become a Chargeman Security in the factory of the respondent holding him to be a workman, the Court noted thus,

> 'The substantial duty of the appellant was only that of a Security Inspector at the gate of the factory premises. It was neither managerial nor supervisory in nature in the

[13] (1970) 3 SCC 248
[14] (1984) 2 SCC 569

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> sense in which those terms are understood in industrial law. Therefore, the appellant clearly falls within the definition of a workman in Section 2(s) and the reference of the dispute under Section 10(1)(c) was valid in law.' (Para 12)

5.7.5 The dominant nature test was propounded and discussed in a slightly different context of considering the definition of "industry", under the Act, in Corporation of the **City of Nagpur vs. Employees**[15], a body like corporation or municipality discharges functions in different areas through working of different departments. This Court observed that a particular activity of municipality may be covered by the definition of "industry' with the financial and administrative departments are solely in charge of that activity,

> 'But there may be cases where the said two departments may not only be in charge of a particular activity or service covered by the definition of "industry" but also in charge of other activity or activities falling outside the definition of "industry".In such cases a working rule may be evolved to advance social justice consistent with the principles of equity. **In such cases the solution to the problem depends upon the answer to the question whether such a department is primarily and predominantly concerned with industrial activity or incidentally connected therewith.'**
>
> (Para 17)
>
> (emphasis supplied)

[15] AIR 1960 SC 675

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5.7.6 In all such cases, the decisive aspect considered is whether an employee is a "workman" or not, is the substantial, essential and principal nature of work for which the employee is engaged. In **Burmah Shell Oil Storage and Distribution Company of India Limited**, this Court, after referring to **Ananda Bazar Patrika**, referred to, with approval, certain English decisions which also advocated and emphasized the criteria of substantial nature of employment. In **Re Dairymen's Foremen and Re Tailor's Cutters**[16], it was observed that although the employees might perform manual labour, the question was whether that was the real substantial employment for which they were engaged or whether it was incidental or accessory to it. It was observed, "the actual labour of cutting out cloth might be manual labour, but the position he really occupied was a manager of a business department. His duties therefore substantially were not those involving manual labour and he was not workman within the Act".

5.7.7 Similar test was laid down in **Reid versus British and Irish Steam Packet Company Limited**[17], that what is required to be judged is whether the manual work was real substantial work for which the employee is engaged, and vice-a-versa. If a substantial part of the employment cannot be described as "manual" labour, the fact that manual work has to be performed does not bring the employee within the

[16] (1911-12) 28 Times Law Reports 587
[17] (1921) 2 KBD 319

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definition of workman. The reverse is equally true. This was highlighted in **Jaques versus Owner of Steam Tug Alexandra**[18]. The same test of substantial nature of employment was applied in interpreting the word "employed in manual labor" in the Factories Act, **in J & F Stone Lighting and Radio Ltd. versus Haygarth**[19].

6. Therefore, the acid test is, what may be called the dominant nature test to determine whether the employee is a "workman" or not. It is the dominant nature of work or the main employment to which the employee is engaged, that would make or unmake the status as a "workman" for such employee. This test is based on the realistic consideration of the principal nature of work performed by the employee. On the other hand, incidental trapping of supervisory work does not make an employee the supervisor. Even in manual duties, certain supervisory work would be in-built, but it cannot be a ground to exclude the employee from the definition of workman. What is to be applied is the acid test of dominant nature. Supervisor may have to perform clerical work attendant to his principal job.

6.1 Furthermore, the designation or nomenclature is also not the guiding consideration. One has to look and assess only the prominent and dominant nature of work in which the employee is engaged by the employer. The

[18] (1921) 2 AC 339
[19] (1968) AC Pt. 3

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designations and nomenclatures are often designed by the management to suit itself and to embellish the post with high-sounding names such as manager or supervisor or executive, as in the present case. When an employee so designated substantially and essentially works manually without any supervisory domain, he cannot be termed as supervisor, to put him out of the purview of the definition in Section 2(s) of the Act. Such an employee, notwithstanding the designation given to him, would be a ''workman'' for the reason that the substantial and essential nature of duties assigned to him and performed by him, are manual and non-supervisory, who possesses no command over other.

7. Applying the above principles and the tests indicated, to the facts of the present case, the appellant was appointed as a cashier. The employer nomenclatured the appellant to be the manager in the Front Office. In the identity card, he was shown to be an executive. However, when the veil is pierced to seek the real nature of duties, the appellant was not found to be discharging any supervisory or authoritative work. The nomenclature or the designation given to the appellant was an eyewash.

7.1 The evidence on behalf of the appellant clearly showed that he was doing the work of receptionist and used to handle the hotel boys. He denied that he was a manager or had any supervisory powers. He stated that no employee was under him and he was not able to exercise his own authority

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over the staff. He could establish his case that although the respondent employer - the hotel management named his post in a particular fashion in the identity card etc., his duties were never supervisory or managerial, and not used to attend any managerial meetings, nor had power to sanction leave for anybody, nor he was supervising any person or thing in the hotel by virtue of his singular authority.

8. Merely because the management named the post of the appellant as manager in the front office, it would not ipso facto take him out of the purview of workman, for, he was not entrusted with any independent supervisory authority or work, except incidental to manual work. The bald assertion on behalf of the respondent employer that the appellant was manager and that he possessed supervisory powers, remained without support of any cogent material, therefore, without any substantiation. In any view, applying the dominant nature test, the principal duties entrusted to the appellant and discharged by him invested him with the status of a ''workman''. It has to be held that the appellant fell within the definition of Section 2(s) of the Industrial Disputes Act, 1947.

9. In light of the above, the High Court committed a manifest error in taking the view that the appellant was not a workman. The Labour Court rightly held that the appellant was a ''workman'', further recording a finding of fact that the workman rendered had service completing 240 days in a

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year and that his termination was in breach of Section 25-F of the Industrial Disputes Act, 1947. The judgment and award of the Labour Court deserves to be upheld.

10. As a result, the impugned judgment and order of the High Court dated 30.01.2024 in Writ Petition (Civil) No.24351 is set aside. The judgment and award of the Labour Court stands restored. It shall be complied with by the respondent within two weeks from today.

11. The appeal is allowed accordingly.

In view of the disposal of the Appeal, interlocutory applications, if any, will not survive and stand disposed of.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(N.V. ANJARIA)

NEW DELHI;
DECEMBER 17, 2025.