

LABOUR LAW REPORTER

CHIEF EDITOR:
ADVOCATE H.L. KUMAR

EDITOR:
ADVOCATE GAURAV KUMAR



PLUS A JOURNAL FOR HUMAN RESOURCES DEVELOPMENT
IMPORTANT JUDGMENTS

(Monthly)

- Non-renewal of contractual appointment for a fixed period is not retrenchment hence no relief can be granted to the workman. *All. HC 93*
- The workers of the contractor will not be regularised even when neither the principal employer is registered nor the contractor has licence under the CL (R&A) Act. *Cal. HC 79*
- An enquiry will be *vitiated* when the Enquiry Officer asked over 72 questions to the delinquent employee after his cross examination by the management representative. *Bom. HC 17*
- An agreement prohibiting an employee from joining competitive concern for a specified period after cessation of employment will be violative of public policy. *Mad. HC 71*
- A catering supervisor will not be a 'workman' when she was supervising the work of other cooks. *Del. HC 68*
- ESI contributions shall not be recovered either from an establishment or the employees for the period of *interim* stay and also when none of the employees got any facility. *All. HC 46*
- Representation of a bank employee by a lawyer in the enquiry will be permitted when the bank has not weighed the capacity of the delinquent employee and the presenting officer. *Mad. HC 10*
- Every Director of the Company will be responsible for implementation of an award as passed by the adjudicator. *Mad. HC 8*
- Order of the Industrial Court and the High Court, misdirecting that the workman worked for 240 days whereas he worked for 136 days, will be set aside. *Supreme Court 1*
- When the employee has not supported her allegation about forging of her resignation by the employer, the dispute is rightly rejected. *Bom. HC 44*
- An employer will have to pay the compensation even if the workman was not discharging his duty at the time of accident. *AP HC 26*
- Forfeiture of gratuity of a suspended Bank employee, on his retirement, will not be justified in the absence of termination for misconducts. *Guj. HC 58*
- An establishment has been rightly covered under the ESI when there were more than 20 employees in the Head Office and the construction sites. *Bom. HC 52*
- Workers, engaged from material suppliers/transport contractors on casual basis for several years, will be entitled to their regularisation. *Ori. HC 47*
- Non-issuing of second show-cause notice before imposing punishment will not render the enquiry as illegal. *Mad. HC 61*
- Lift Irrigation Scheme, being covered under the Factories Act, will also be 'industrial establishment' as defined by section 25-L of the Industrial Disputes Act. *Bom. HC 73*
- Section 25-G of the I.D. Act providing for 'last come, first go' will not be applicable when retrenchment pertained to the last workman in his category. *All. HC 91*
- A muster roll employee cannot be regularised unless there exists a post. *All. HC 93*
- An *ex parte* award of the Labour Court granting reinstatement to a sweeper will be quashed if it is silent about employment of the workman. *P&H HC 77*
- An award will not be set aside after analysing the material and proper appreciation of evidence on record. *All. HC 84*
- While exercising its powers under section 33-C(2) of the I.D. Act, Labour Court to see whether the claim is based on the existing right or not. *Guj. HC 87*
- Right of re-employment, after retrenchment, will not be available to a workman who was employed for 3 months due to exigencies of work. *All. HC 91*
- When a workman has worked for more than 240 days, his termination will be prima facie illegal in the absence of retrenchment compensation. *Uttr. HC 15*
- An insurer cannot escape its liability for compensation to the dependents of the deceased tractor driver on the plea that the tractor was to be used only for agricultural purposes. *Bom. HC 13*
- A plea of the ESI Corporation that the workers engaged in transport of cylinders were under supervision of the Company will not be tenable when reliance has been made on the trip sheets. *AF HC 4*
- The award of the Labour Court for setting aside dismissal and granting reinstatement, since deprivation of 75% back-wages for a period of 8 years to workman, will not be interfered. *Guj. HC 36*
- Dismissal of a bus cleaner for absence and not for misappropriation or dishonesty will be set aside. *Guj. HC 36*
- The Commissioner under Workmen's Compensation Act is empowered to award more compensation than that as claimed by the claimant. *AP HC 30*
- An enquiry will not be *vitiated* when the delinquent officer alleged that certain documents were not furnished which is contrary to the proceedings. *Mad. HC 61*
- High Court will not act as an Appellate Court but only correct the errors of law, procedure or violation of principles of natural justice. *Mad. HC 61*
- Termination of a watchman, after the incident of theft in the residential colony will be set aside when there was no supporting evidence in the enquiry. *Uttr. HC 89*
- Non-renewal of contract of an employee who was engaged on daily rate basis will not amount to retrenchment. *All. HC 84*
- When the workman has not raised any objection before the Labour Court about validity of enquiry, he cannot take such plea before the High Court. *Mad. HC 82*
- When persons are not engaged in the activity of transport of cylinders within the premises of the factory, their coverage under the ESI will not be proper. *AP HC 4*
- Termination of workmen having worked for more than 400 days continuously, sans retrenchment compensation, will be unjust and hence their reinstatement. *Ori. HC 11*
- Last drawn and not the minimum wages will be payable to a workman during pendency of the proceedings in the higher courts. *Guj. HC 7*
- The initial burden of proof to establish the working for 240 days will rest upon the workman. *Supreme Court 1*
- While imposing punishment upon an employee, the authority has to keep in mind his socio economy background and past record. *Guj. HC 36*
- Once a workman reports for duty and accident occurs, the question whether he has reported for duty to his superior becomes irrelevant. *AP HC 26*
- The order of the Labour Court in accepting claim for overtime wages by a watchman will be set aside when the Government has fixed the working hours and debarred the employees from making such claims. *Guj. HC 32*

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DELEGATION IS MUST FOR A SUCCESSFUL MANAGER

by R.S. Jagdev

Delegation, the passing down of authority from supervisor to subordinate, places greater responsibility on the employee. It is a useful motivational tool for many people. It is a compliment to be given authority which formerly belonged to one's boss. Delegation makes a person partially responsible for a superior's job performance and welfare. To some people it is an impressive act of faith.

Failure to delegate can waste your time, prevent you from focusing on your priorities and keep employees away from improving their talents. Delegation gives higher management more time to act on major and nonrecurring problems. At the pinnacle of an organisation this spells better long-range success. Higher managers, who are tied up with day-to-day operations, must place concern for next year's operations out of reach.

Also, delegation accelerates lower-level managers' development. It requires them to play a more responsible role in guiding the organisation, so their skills and talents improve faster. The entire enterprise grows and remains strong in the process; morale normally increases because subordinates are permitted to use their own initiative in the course of their work. Good managers, while remaining responsible for everything they delegate, make as few decisions as possible. They concentrate on those that will cost the company a great deal of money and represent many people's time and expertise. They leave lesser matters to decision-makers down the management line.

Construction plan for delegation

- Try to assign tasks you have already mastered. Why: You will confidently guide employees through the assignments and can easily help solve problems as they arise. Pick staff members with sufficient skills and knowledge for the job.
- List tasks that you want to delegate and match those tasks with people who can handle them.
- Set up a time to teach these employees anything else they need to know.
- Clarify expected results; state how success will be measured.
- Give adequate authority and define its scope clearly.
- Emphasise the importance of the assignment and its role in the total scheme
- Explain how to do the job; give examples; ask and answer questions.
- Allow the subordinate to carry out the task in an individual manner, within the limits of

organisational policy; encourage an innovative approach.]

- Establish accountability; make the employee feel obliged to carry out the assignment well; obtain a personal commitment.
- Encourage independence; stress faith in the person's ability, but leave the door open for assistance if problems arise.
- Provide for feedback on progress through informal contacts, status reports, personal observation, and periodical meetings.
- Review the abilities of subordinates periodically; avoid stereotyping people according to earlier performance levels.



Help employees succeed

Encourage employees to find solutions before coming to you with a problem. Result: They will learn to solve problems better and you won't waste time by handling half-completed tasks. Have staff members describe in detail any situation they cannot handle. Make sure they let you know what actions they have already taken. Then, have them tell you what action they want you to take. Express your confidence in your employees' abilities. Result: You will help ease possible anxiety about handling new responsibilities. Stay in the background most of the time once the assignment is under way. Check in with the individual on an agreed upon basis. Review problems and offer help and encouragement.

Review the assignment

The final step in delegating is to meet with employees and review completed tasks. When you meet:

Discuss how well staff members performed. Consider applying a rating system. You can use the ratings as goals for employees to surpass the next time they receive assignments.

Steer employees towards problem solving when you note mistakes. Ask questions such as, "What did you see that you have not encountered before?" "What choice would have been better?" "Why?"

Give credit clearly, personally and publicly when deserved. You will boost employee self-esteem, morale and enthusiasm for handling future projects.

R.S. Jagdev is a private detective running Probe Intelligence Services. A former Personnel Manager, his practice concentrates on pre-employment screening and labour intelligence matters.