



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

THURSDAY, THE 15TH DAY OF OCTOBER 2026 / 23RD ASWINA, 1948

WA NO. 1924 OF 2026

JUDGMENT DATED 30.07.2026

ARISING FROM : WP(C) NO.25229 OF 2024

APPELLANT/PETITIONER:

SMT.I.BINDHU, AGED 59 YEARS,
D/O. K. BHASKARAN NAIR, SREEVALSOM
(THOPPUMVILAKOM), VELLANADU (P.O),
THIRUVANANTHAPURAM., PIN - 695543.

BY ADVS.
SRI.GOPAKUMAR R.THALIYAL
SRI.M.S.VIJAYACHANDRA ABABU
SHRI.JITHU S. BABU

RESPONDENTS/RESPONDENTS:

- 1 M/S. THIRUVANANTHAPURAM SERVICE CO-OPERATIVE
BANK LIMITED NO. T. 131, PRESS ROAD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
SECRETARY., PIN - 695001.
- 2 THE LABOUR COURT, KOLLAM,
T D NAGAR, VIDYA NAGAR,
KOLLAM, KERALAM, PIN - 691013.

CNR : KLHC010725572026



2026:KER:79704

WA NO. 1924 OF 2026

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SRI N ANAND-R1

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
15.10.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

Devan Ramachandran, J.

If we are to solely answer the polemic between the parties in this case, a judgment of this length would be unnecessary. But, for reasons we will presently record, we are also called upon to enter into important issues in the realm of judicial propriety, restraint, and discipline.

2. The appellant filed the Writ Petition - from the judgment in which, this Appeal arises - challenging Ext.P5 order of the learned Labour Court, Kollam.

3. The appellant was proceeded against disciplinarily by the first respondent - Thiruvananthapuram Service Co-operative Bank Limited No.T.131 (hereinafter referred to as the



'Bank'), which led to an order of dismissal against her. She approached the learned Labour Court through I.D.No.9/2019, in which, a preliminary Award in her favour was issued, setting aside enquiry report, for the reason that the charge sheet issued to her by the Chairman of the Disciplinary Action Sub-Committee was invalid. Thereafter, on 29.9.2023, the learned Labour Court issued a Final Award, setting aside the enquiry, as also the orders of punishment; but reserving liberty to the Bank to initiate fresh disciplinary action against the appellant, fixing a time frame of three months for its completion.

4. It is admitted that the Bank issued a fresh charge memo to the appellant only on 24.2.2024; and to have then constituted a Disciplinary Sub-Committee on 15.3.2024.



5. However, since the Award of the Labour Court had fixed the above mentioned time frame, the Bank filed I.A.No.21/2024 before the learned Labour Court, seeking enlargement of time for completion of disciplinary proceedings. This application was allowed by the Labour Court through Ext.P5 order.

6. The petitioner assailed Ext.P5 in the Writ Petition; but a learned Single Judge dismissed it through judgment dated 18.2.2026, declaring that the learned Labour Court had jurisdiction to extend the time earlier fixed by it.

7. This judgment was carried in Appeal by the appellant before a learned Division Bench, in Writ Appeal No.769/2026. The learned Bench noticed that, though there were two issues in the Writ Petition, as discernible from its



pleadings, namely: (a) that Ext.P5 was vitiated, since learned Labour Court obtained no jurisdiction to have issued it; and (b) that its conclusions therein are illegal, the learned Judge had not adverted to, much less considered the latter. The appeal was thus allowed; and the learned Judge was requested to reconsider the Writ Petition on the afore issue.

8. The learned Single Judge has again dismissed the Writ Petition, through the impugned judgment dated 30.07.2026, approving Ext.P5; and alluding that a Division Bench, in Appeal, cannot 'normally' remand.

9. The appellant is thus in Appeal again; and vehemently argues that Ext.P5 is erroneous, both because, the learned Labour Court obtained no jurisdiction to issue it - having been rendered *functus officio* after a period of one



month from the date of the award; and since the reasons stated therein are perverse, illegal and capricious.

10. We cannot have any cavil with the proposition in law that a Division Bench does not normally remand a matter for reconsideration of an issue decided by the Single Bench. However, any impression that a Division Bench cannot do so at all is also incorrect.

11. The power of a Division Bench to order remand to, or request consideration by, a Single Bench for valid cause - particularly that a germane aspect had not been considered or answered by it - is inherent.

12. As correctly noticed in the impugned judgment, a learned Full Bench of the Karnataka High Court in *Town House Building Co-operative Society Limited v. Special Deputy Commissioner*



[AIR 1988 Karnataka 312] has opined under:

As a result of the aforesaid discussion, the answers to the questions referred to us may be stated as follows:-

"(i) That there is an inherent power in the Division Bench hearing writ appeal against an order of a learned single Judge, to remand the case to be decided afresh by a learned single Judge;

(ii) That a remand order may be passed in cases where a Writ Petition has been dismissed for nonprosecution or in limine or on the ground of delay or maintainability or on some question of law without going into merits, etc. However, it is best in these matters to be neither dogmatic nor exhaustive, yet the aforesaid categories are the ones in which the Appellate Bench may exercise its power of remand; and

(Emphasis Supplied)

13. But, while doing so, certain cardinal and ineludible principles must be strictly kept



in mind, which we remind ourselves under.

14. All Judges of a High Court are equal in status and power, with the Hon'ble the Chief Justice enjoying the position of first among them – *Primus inter pares*. Needless to say, therefore, all Benches are also equal – without any of them being subordinate or superior to the others.

15. As the Hon'ble Supreme Court has succinctly declared in *Roma Sonker v. M.P. State PSC* [(2018) 17 SCC 106], that it is only to avoid inconvenience to the litigants, another tier of screening by the Division Bench is provided; but this does not mean that a Single Bench is subordinate to the Division Bench. The exact words of the Hon'ble Court are reproduced below:

"3.....It is the exercise of



jurisdiction of the High Court under Article 226 of the Constitution of India. The learned Single Judge as well as the Division Bench exercised the same jurisdiction. Only to avoid inconvenience to the litigants, another tier of screening by the Division Bench is provided in terms of the power of the High Court but that does not mean that the Single Judge is subordinate to the Division Bench. Being a writ proceeding, the Division Bench was called upon, in the intra court appeal, primarily and mostly to consider the correctness or otherwise of the view taken by the learned Single Judge."

16. In fact, the afore view is in consonance with an earlier judgment of the Hon'ble Supreme Court in *Baddula Lakshmaiah v. Sri Anjaneya Swamy Temple* [(1996) 3 SCC 52], in which, on the powers of a Division Bench in appeal - in the context of an argument that it could not have upset a finding of fact recorded by a Single Bench - the following was said:

"It is the internal working of the High



Court which splits it into different 'Benches' and yet the court remains one. A Letters Patent Appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate Court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error."

17. In *Ladli Prashad Jaiswal v. The Karnal Distillery Co. Limited* [AIR 1963 SC 1279], the Hon'ble Supreme Court explained the relationship among Benches of a High Court, in the context of the words "Court immediately below" occurring in Art.133(1) of the Constitution of India, declaring that it cannot be equated with the words "Court sub-ordinate" found used in S.115



of Civil P.C. It has unambiguously clarified that the two expressions have not the same meaning - a Court subordinate to the High Court being subject to its superintendence; whereas, a "Court immediately below" being the one from whose decision the intra-court Appeal has been filed.

18. All Benches are constituent parts of the same High Court, acting under Unified Authority; with Benches of larger strength enjoying no supervisory or mentorship role over Benches with lower strength. There cannot be any such among Peers.

19. Axiomatically, no Bench - higher in strength, or otherwise - can neither advise or counsel, nor criticize - as if supervisorily, other Benches or its members, on how to act and behave, or what to say and record. To do so,



would be to assume superiority, which no Bench can claim over another. Such proclivity strike the very root of the imperatives of judicial propriety.

20. As unequivocally and emphatically said by the Hon'ble Supreme Court in *Rohan Vijay Nahar and others v. State of Maharashtra and others* [(2026) 2 SCC 182], judicial strength is derived from "discipline, and not dominion".

21. Foundational to this is **Peer Restraint**, edified on horizontal relationship between Benches, rather than a purely hierarchical one. The doctrine of Peer Restraint is not underpinned solely on the principles of *stare decisis*, but also on the inviolable notions of comity between Benches and predictability of outcomes in judicial processes. The restraint, to be exercised by a



Bench while dealing with opinions of another, is unexpendable and inviolable. Thus, Peer Restraint - central to mutual respect and harmony - stand sacrosanct and integral to judicial discipline.

22. An Appellate Bench can differ from the views of a Single Bench and set aside or modify the impugned judgment for valid cause; but cannot, while doing so, offer advice to, or criticise, Judges.

23. The words "remand" or "remit", used in the context of a Division Bench - in exercise of its appellate jurisdiction - requiring a Single Bench to consider an aspect not decided by it in the impugned judgment, is never in the nature of a command or direction; but a request, ordinarily to be acceded to.

24. Recently, in January of this year, the



Hon'ble Supreme Court examined when and how the appellate power in an intra-court jurisdiction requires to be exercised.

25. In *Rajasthan Public Service Commission v. Yati Jain* [2026 KHC Online 6051 (SC)], the Hon'ble Court, in para 51 thereof, has emphatically spoken on the afore as under:

"When and how such an appellate power in the intra-court jurisdiction may be exercised? In our considered opinion, exercise of intra-court appellate jurisdiction could be called for if the judgment/order under challenge is palpably erroneous or suffers from perversity; but, it may not be exercised when two views are possible on a given set of facts and one of two views has been taken which is a plausible view."

26. A few days later, adverting to *Baddula Lakshmaiah* (supra,) the Hon'ble Court, delivered *Bihar Industrial Area Development Authority v.*



M/s Scope Sales Pvt. Ltd. [2026 KHC Online 6072 (SC)], reiterating the above, in para 13 thereof, as under:

"It is pertinent to note that both - Single Bench and Division Bench - exercise the same jurisdiction under Article 226 of the Constitution. In our view, the exercise of intra-court appellate jurisdiction is warranted only where the judgment or order under challenge is demonstrably erroneous or suffers from perversity. Such jurisdiction ought not to be invoked merely because another view is possible on the same set of facts, particularly where the view adopted by the Single Judge is a plausible and reasonable one. In other words, an intra-court appellate Bench ought not to substitute its own view, merely because such Bench considers its view to be better than the one taken by the Single Bench; so long as the view taken by the Single Bench is a plausible one, interference should stay at a distance."



27. We stand fully guided by the emphatic precedential enunciation that, when the Single Bench has decided an issue/aspect and has recorded its views on it, the Division Bench, in appeal, obtains no right or competence to order remand, or to request it to reconsider it, in any manner. The necessary exception to this would be, when the Single Bench had not adverted to, or considered, a crucial aspect - thus it not having recorded its opinion on it - in which event, the Appellate Bench can request its consideration by it.

28. This is irrefutable because, the Hon'ble Supreme Court lays weight on the "views" of a Single Bench, while cautioning Division Benches not to exercise appellate power, unless



they are demonstrably erroneous or suffers from perversity. It is pertinent that the Hon'ble Court has unequivocally alerted Division Benches not to interfere merely since another view is possible, or solely because it considers its opinion to be better, particularly where the view adopted by the Single Judge is a plausible and reasonable one.

29. Luculently, therefore, when a Single Bench does not record its view, or opinion, or finding, on a germane issue or issues, the Division Bench obtains no basis for appellate exercise; and if it is to consider such issue on its own, it will not be in appellate jurisdiction, but at the first instance. In such a situation, the Division Bench surely will obtain justification to request consideration of the unanswered issue by the Single Bench.



30. Even within the restricted ambit as said above, there may arise before a Division Bench specific situations, when a remand may become inevitable to be made. For example, a Single Bench may allow or dismiss a Writ Petition, involving multiple issues - factual and legal - answering only the questions of law, without entering the others. The Division Bench, in appeal, may find the interpretation by the Single Bench to be incorrect, to thus allow it. This will lead to the other questions surviving, without answer. The Division Bench then will obtain two alternatives before it: either answer all such issues and questions on its own, or request the Single Bench to do so. Take another example of a Writ petition with two aspects projected - both relevant to the cause; and the Single Bench disposing of the same, answering



only one of them and not the other. Here again, the Division Bench may differ; and will thus face the above predicament - either to answer the unadverted issue on its own, or to request the Single Bench to do so first. The examples are not exhaustive.

31. There is yet another equally compelling and wholly justified reason for a Division Bench to request the Single Judge to consider aspects/issues it had omitted to answer, or not answered, in the judgment impugned. Every appeal is against the judgment of a Single Bench; and without it, there cannot be one. If, therefore, a Single Bench has not decided, or opined, on an issue, there can be no appeal on it. When so, the Division Bench will not have the benefit of the opinion of the Single Bench on all points. As said in *Roma*



Sonker (supra), it is to the benefit of the litigants that a "tier of screening of the opinion of a Single Bench by a Division Bench is provided." Indubitably, it is the opinion of a Single Bench which is to be screened; and hence without such, no appellate exercise would be possible.

32. Further, if a Division Bench proceeds by itself to answer an issue not touched upon, or answered, by the Single Bench, the litigant will lose the benefit of an intra-court appeal on such, to be forced to move the Hon'ble Supreme Court. The "second tier of screening" will be thus effectively lost.

33. But, it will be wholly different scenario where a Single Bench has decided an issue on merits. The Division Bench cannot then 'remand' or 'remit' the matter for



reconsideration or modulation of relief - as was the case in *Roma Sonker* (supra), because it finds the opinion to be wrong or incorrect. The Division Bench must then decide the appeal, confirming, or setting aside, or modifying, the judgment impugned.

34. In summation, the power to remand by the Division Bench is an exception to the rule, to be done solely and exclusively, when the Single Bench had not considered an issue of vital importance/aspect. We, however, accept the judgment of the learned Full Bench of the High Court of Karnataka in *Town House Building Co-op. Society Ltd.* (supra) only such limited extent.

35. That said, as is well settled and known, the precedential worth of judgments have direct bearing on the strength of the Bench which delivers it. A single Bench is, normally,



bound by the declarations in the judgment of a Division Bench, unless the latter is seen to be in conflict, or in violation, of that of the Hon'ble Supreme Court; or that of a Bench of a co-ordinate or higher strength. Even in such event, the Single Bench cannot disregard or overturn the precedent, but must refer to the Hon'ble Chief Justice for appropriate action.

36. Applying the afore guiding propositions to the specifics of this case, we are persuaded that the order of remand by the learned Division Bench was necessary and apposite.

37. This is because, admittedly, one of the most relevant issues had not been adverted to, or answered, by the learned Single Bench. In the judgment now impugned, the learned Single Judge has explained that this was because, the



said issue was not urged at the time of hearing. We unreservedly accept this - even though the learned counsel for the appellant vehemently states to the contrary, pointing out that the pleadings contained specific contentions against Ext.P5 on its merits. But, the fact remains that the said issue concededly remained without being answered.

38. Now, we move to the merits of the rival contentions.

39. Sri.Gopakumar R.Thaliyal - learned counsel for the appellant, argues that the impugned Ext.P5 order of the Labour Court is bad for two reasons, namely: (a) that it did not obtain the legal competence to issue it, since on the Award becoming enforceable under the provisions of Sections 17 and 17A of the Industrial Disputes Act, 1947 ('ID Act', for



short), it was rendered *functus officio*; and (b) that, even if it is otherwise, the said order is illegal and unlawful.

40. Sri.N.Anand - learned counsel for the 1st respondent, refuted the afore, relying upon various precedents, including *Haryana Suraj Malting Limited v. Phool Chand* [(2018) 16 SCC 567], asserting the competence of the Labour Court; further, arguing that the reasons relied upon by the said Court, in allowing Ext.P3 application of his client, are valid and without fault. He prayed that this Appeal be, therefore, dismissed.

41. We will first deal with the question whether the learned Labour Court obtained the power to have extended the time frame fixed in Ext.P2 Award.

42. Before we proceed, we must record that



the learned Single Judge, in his first judgment dated 18.02.2026, had concluded that the learned Labour Court had the competence to issue Ext.P5 order. We are in approval of this because, as rightly argued by Sri.N.Anand, in *Haryana Suraj Malting Limited* (supra), the Hon'ble Supreme Court, in paragraphs 35 and 37, has declared the law as under:

35. It is a matter of natural justice that any party to the judicial proceedings should get an opportunity of being heard, and if such an opportunity has been denied for want of sufficient reason, the Labour Court/Tribunal which denied such an opportunity, being satisfied of the sufficient cause and within a reasonable time, should be in a position to set right its own procedure. Otherwise, as held in *Grindlays*, an award which may be a nullity will have to be technically enforced. It is difficult to comprehend such a situation under law.



37. Merely because an award has become enforceable, does not necessarily mean that it has become binding. For an award to become binding, it should be passed in compliance with the principles of natural justice. An award passed denying an opportunity of hearing when there was a sufficient cause for non-appearance can be challenged on the ground of it being nullity. An award which is a nullity cannot be and shall not be a binding award. In case a party is able to show sufficient cause within a reasonable time for its non-appearance in the Labour Court/Tribunal when it was set ex parte, the Labour Court/Tribunal is bound to consider such an application and the application cannot be rejected on the ground that it was filed after the award had become enforceable. The Labour Court/Tribunal is not functus officio after the award has become enforceable as far as setting aside an ex parte award is concerned. It is within its powers to entertain an application as per the scheme of the Act and in terms of the rules of natural justice. It needs to be



restated that the Industrial Disputes Act, 1947 is a welfare legislation intended to maintain industrial peace. In that view of the matter, certain powers to do justice have to be conceded to the Labour Court/Tribunal, whether we call it ancillary, incidental or inherent.

(Emphasis Supplied)

43. It is inescapable from the above emphatic declarations that, merely because an Award becomes enforceable, it would not become binding, if there are reasons to render it nullity or otherwise vitiated; and that, in such scenario, the Labour Court is not rendered *functus officio*, and obtains the power to do justice - whether such power is characterized as ancillary, incidental or inherent.

44. It is pertinent that the learned Labour Court fixed a time frame in Ext.P2, not



as stipulated by any provision of law, but to ensure that the appellant is not put to unnecessary prejudice on account of a perpetually pending enquiry against her. However, when the 1st respondent approached it for extension of time, citing certain reasons - whether such are valid or otherwise, which we will consider presently - the learned Labour Court exercised its power and extended the time frame through the impugned order.

45. Travelling with the declarations in *Haryana Suraj Malting Limited* (supra), we cannot hold that the learned Labour Court did not obtain the competence to have extended time; though, whether it was justified in doing so in the manner it has done, is an entirely different issue.

46. We, therefore, have little doubt that



the learned Labour Court had the power to issue the impugned order; and hence, repel all contentions of the appellant to the contrary.

47. The surviving issue is if Ext.P5, on its merits, is deserving of approval.

48. As said earlier, the impugned order arises out of Ext.P3 application of the 1st respondent, filed seeking extension of the time fixed in Ext.P2 Award.

49. The reasons stated by the 1st respondent, in support of its plea, are that its Managing Committee assumed charge only on 20.05.2023; that after the Labour Court issued its Award on 29.09.2023, it decided to obtain a legal opinion, for which, a certified copy of the Award was applied for on 06.10.2023 and received only on 19.12.2023; that, however, this certified copy was lost, and that a fresh one



was applied for and obtained only on 08.02.2024. They concede that, it was, thereafter, that they issued a fresh Charge Memo to the appellant on 24.02.2024; and then constituted a Sub Committee on 15.03.2024, which appointed the Enquiry Officer on 16.03.2024.

50. The learned Labour Court accepted the afore explanation without any enquiry, saying "*But any how the changed circumstances can be taken in to account*" (sic).

51. We do not propose to speak any further because, going by the declarations in ***Haryana Suraj Malting Limited*** (supra), it is only where the requirements of justice is to be ensured, could the Labour Court have extended the time frame. In other words, the rival interests ought to have been taken into account and evaluated.

52. The learned Single Judge, however, in



the impugned judgment, found that "*I find no ground to hold that the reasons that weighed with the Labour Court in extending the time for completing the enquiry are perverse*"; and further that, even if it is otherwise, "*this Court will not substitute its view for the view of the Labour court, as that is not the role of this Court in Judicial Review*".

53. The afore holdings of the learned Single Judge do not appeal to us, it being not in conformity with the unequivocal declarations of the Hon'ble Supreme Court in *Haryana Suraj Malting Limited* (supra).

54. When the Hon'ble Court has unambiguously concluded that the powers vested with the Labour Court - whether it be called ancillary, incidental or inherent - be exercised to do justice to the parties and for no other



purpose, it was incumbent on it to have assessed the explanation/reasons impelled before it by the 1st respondent - from the angle of requisites of justice, weighing it against the contentions of the appellant - rather than have accepted the same, as if they are the absolute truth.

55. To paraphrase, the learned Labour Court has erred in allowing Ext.P3 application without any evaluation of the merits of the reasons stated in it, or the objections of the appellant; merely saying "*any how the changed circumstances can be taken in to account*" (sic), and, that too, without explaining what it means by this. When the said Court allowed Ext.P3 application in such manner, without entering any opinion on the explanation offered in it, or on the objections of the appellant, one cannot fathom how Ext.P5 order can be granted approval.



56. We are, consequently, firm that the learned Labour Court must consider Ext.P3 application again on its merits.

In such circumstances, we allow this Appeal and set aside the impugned judgment, as also Ext.P5; with a consequential direction to the learned Labour Court to reconsider Ext.P3 application on its merits, culminating in an appropriate order, not later than two months from the date of receipt of a copy of this judgment.

DEVAN RAMACHANDRAN

JUDGE

BASANT BALAJI

JUDGE



APPENDIX OF WA NO. 1924 OF 2026

PETITIONER ANNEXURES

ANNEXURE 1	TRUE COPY OF THE JUDGMENT DATED 18.02.2026 PASSED BY THIS HON'BLE COURT IN W.P (C) NO. 25229/2024
ANNEXURE 2	TRUE COPY OF THE JUDGMENT DATED 02.06.2026 PASSED BY THIS HON'BLE COURT IN W.A NO. 769/2026.
ANNEXURE 3	TRUE COPY OF THE CIRCULAR NO. 34/2010 DATED 03.07.2010 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES.
ANNEXURE 4	TRUE COPY OF THE NOTICE DATED 16.09.2026 ISSUED BY THE ENQUIRY OFFICER.