2026 INSC 445

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. ……/2026
SPECIAL LEAVE PETITION (C) Nos. 6961-6962/2022

BONATRANS INDIA (PVT.) LTD. …APPELLANT

VERSUS

BONATRANS EMPLOYEES UNION …RESPONDENT

J U D G M E N T

DIPANKAR DATTA, J.

1. Leave granted.

2. These appeals are at the instance of Bonatrans India Pvt. Ltd.[1], which is aggrieved by the common judgment and order dated 22nd March, 2022[2] of a learned Judge of the High Court of Judicature at Bombay, Bench at Aurangabad. *Vide* the impugned order, the learned Judge disposed of Writ

[1] employer
[2] impugned order

Petition No. 1109/2021 preferred by the Employees' Union[3] and Writ Petition (Stamp) No. 2839/2020 of the employer.

3. Proceedings before the Industrial Court, Aurangabad under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971[4] was initiated by the Union by lodging a complaint[5] claiming diverse relief. Prayers, *inter alia*, included declarations that the employer had engaged in unfair labour practices, that the disciplinary proceedings which were initiated against certain employees by the employer were *ultra vires* the terms and conditions of employment, etc. The employer had filed an objection *vide* Exhibit C/8 questioning the status of the employees on whose behalf the complaint had been lodged by the Union. According to the employer, the employees were not workmen within the meaning of 'workman' defined by Section 2(s) of the Industrial Disputes Act, 1947[6] and hence, the complaint was not maintainable. The Industrial Court, however, in the face of opposition raised by the Union, *vide* its order dated 11th December, 2019, rejected Exhibit C/8 and did not frame any preliminary issue. This triggered the writ petition of the employer before the High Court. On the other hand, the Union applied for interim relief *vide* Exhibit U/2. The Industrial Court, however, *vide* its order dated 5th January, 2021, declined to protect the employees from facing the enquiry which had been initiated by the

[3] Union
[4] MRTU & PULP Act
[5] Complaint (ULP) No 146 of 2019
[6] ID Act

employer. This order formed the subject matter of challenge before the High Court in the Union's writ petition.

4. The crux of the controversy centres around interpretation of clause (a) of paragraph '11' of the impugned order. We consider it apposite to quote paragraph '11' of the impugned order in its entirety, hereunder. The same reads:

> "11. In view of the above, Writ Petition (stamp) No. 2839/2020 is partly allowed. The impugned order dated 11.12.2019 rejecting exhibit C/8 is quashed and set aside and C/8 is allowed to the following extent:-
>
> (a) The following issue shall be framed by the Industrial Court on 31.03.2022:-
>
> > Whether, the respondent/employer proves that the employees, for whom the complainant Union is espousing the cause, are covered by the definition of workman under Section 2(s) of the Industrial Disputes Act, 1947?
>
> (b) For framing the above issue, Complaint (ULP) No.146/2019, which is now posted on 27.06.2022, shall be pre-poned to 31.03.2022.
> (c) The Complainant Union will commence the recording of oral and documentary evidence on the above issue and the same would be concluded in between 01.04.2022 to 20.04.2022.
> (d) The Management shall conclude the recording of it's evidence in between 21.04.2022 till 07.05.2022.
> (e) Thereafter, the matter would be listed for recording of oral submissions of the parties on 06.06.2022 to be concluded by 10.06.2022.
> (f) The learned Member, Industrial Court, Aurangabad, is requested to deliver it's order on the above stated issue, on 30.06.2022.
> (g) Until 30.06.2022, the status-quo as existing today shall be maintained.
> (h) It is made clear that after the above stated issue is decided, the Industrial Court is at liberty to deal with the complaint as is permissible in law.
> (i) The protection granted by this Court on the basis of the statement made by the Management in Writ Petition No.1109/2021, would continue for a period of 15 days after the Industrial Court delivers it's order on 30.06.2022."
>
> (underlining for emphasis by us)

5. Aggrieved thereby, the employer petitioned this Court under Article 136 of the Constitution. While issuing notice on the special leave petitions,

out of which these appeals arise, a coordinate Bench of this Court by its order dated 22nd April, 2022, recorded as follows:

> "1 Mr Sudhir K Talsania, senior counsel appearing on behalf of the petitioner submits that the Single Judge of the High Court has erroneously cast burden of establishing that the respondents are not workmen within the meaning of Section 2(s) of the Industrial Disputes Act 1947 on the petitioner-employer, whereas the settled position in law is exactly to the contrary. Moreover, it has been submitted that the employer has been restrained, as a result of the interim protection, from continuing with the disciplinary enquiry.
> 2 Issue notice, returnable in eight weeks.
> 3 Dasti, in addition, is permitted.
> 4 Counter affidavit shall be filed within a period of four weeks from the date of service of the notice.
> 5 Further proceedings before the Industrial Court in Complaint (ULP) No 146 of 2019 shall remain stayed. In the meantime, the disciplinary enquiry is permitted to continue, but no final order shall be passed."

6. Having regard to the point urged by Mr. Talsania, learned senior counsel before the coordinate Bench, which has been repeated before us by him, we have read clause 'a' of paragraph '11' (supra) of the impugned order carefully. In our considered opinion, though the issue (as formulated by the High Court, which the Industrial Court was directed to frame) lacks precision and is ostensibly incorrect, the lapse is entirely inadvertent and stems from phrasing alone, not from any misunderstanding of law.

7. *Ei incumbit probation qui dicit, non qui negat* translates to 'the burden of proof lies on the one who asserts, not on the one who denies'. Section 104 of the Bharatiya Sakshya Adhiniyam, 2023[7] (former Section 101 of the Indian Evidence Act, 1872[8]) embodies this principle by ordaining on whom the burden of proof lies. Although the BSA, or for that matter the Evidence Act, does not strictly apply to adjudication under the MRTU &

[7] BSA
[8] Evidence Act

PULP Act, he who asserts must prove is the cardinal rule of evidence which admits of no exception and extends to all forms of adjudication.

8. It is, thus, obvious that if in course of adjudication of a complaint under the MRTU & PULP Act the management as a point of demurrer either denies the employer-employee relationship or disputes the status of an employee contending that he is not a workman, the burden would be on the complainant to prove the relationship or the status, as the case may be, then to persuade the Industrial Court to overrule the objection and proceed ahead for consideration of grant of relief, as prayed. This would imply, as in the present case, that the Union (which has been espousing the cause of the employees) has to prove that they are workmen within the meaning of 'workman' as defined in Section 2(s) of the ID Act and, therefore, the complaint is maintainable. Should the Union, in discharge of the burden of proof, fail to prove that the employees are indeed workmen, no further inquiry is required and the complaint would be closed. The position is so well settled in law that we need not refer to any precedent on the point.

9. Although the phrasing of the issue in clause 'a' of paragraph '11' (supra) is not apt, it is clear from the discussion made in paragraphs 4, 6 and 9 of the impugned order as to what the learned Judge had in mind and intended. Whether the employees were workmen within the meaning of 'workman' as defined in Section 2(s) of the ID Act was considered by the learned Judge to be at the heart and soul of the litigation as well as the conflict between the employees and the employer. The learned Judge

acknowledged that even though the employer is carrying on an industry, the employees have to satisfy the Industrial Court that they are workmen to attract its jurisdiction. It is also revealed that the learned Judge called upon the learned counsel for the Union to state whether the issue as to the status of the employees being decided by the Industrial Court peremptorily is acceptable or not, to which the Union agreed that the status be decided in the light of Exhibit C/8.

10. In the circumstances, it would defy reason to accept Mr. Talsania's submission that the learned Judge erroneously cast the burden on the employer to establish that the employees were not workmen within the meaning of 'workman' defined in Section 2(s) of the ID Act.

11. In our considered opinion, the appeals can be disposed of by a modification of the issue framed by the learned Judge by replacing the expression 'respondent/employer' in the first line by 'complainant-union' and in the manner following:

> "Whether, the complainant-union, proves that the employees, for whom the complainant-union is espousing the cause are covered by the definition of workman under Section 2(s) of the ID Act?"

It is ordered accordingly. Let this issue be decided as a preliminary issue.

12. Since much water has flown under the bridge since pendency of these proceedings before this Court, we deem it fit and proper to make the further following directions:

(i) The Union will commence the recording of oral and documentary evidence on the issue, formulated in paragraph '11' (supra) on 18th

May, 2026. Recording of oral and documentary evidence before the Industrial Court shall be completed within a month, i.e., by 17th June, 2026.

(ii) The employer shall conclude the recording of its evidence within a month thereafter (i.e., within a month from 17th June, 2026).

(iii) The Industrial Court will thereafter fix dates for hearing the oral arguments of the parties, subject to its convenience.

(iv) The Industrial Court is encouraged to pronounce its decision on the preliminary issue as early as possible thereafter, but within 31st October, 2026 without fail.

(v) The parties shall co-operate and render adequate assistance to the Industrial Court and shall not seek undue adjournments.

13. We have been informed by Mr. Talsania that availing the liberty granted by the order dated 22nd April, 2022 of the coordinate Bench, disciplinary enquiries have been concluded but the final orders are yet to be passed. We make it clear that should the issue formulated in paragraph '11' (supra) be decided in favour of the employer and against the Union, the employer shall be free to pass the final order and take the disciplinary proceedings to its logical conclusion. However, if the issue is decided in favour of the Union, the employer would be required to apply for and obtain permission from the Industrial Court to pass the final order. Other directions given by the learned Judge, to the extent not inconsistent with what we have observed above, however, are not touched.

14. With the aforesaid modification of the impugned order, the appeals are allowed in part. Parties shall bear their own costs.

15. All points and contentions on merit are left open for the parties to urge before the Industrial Court.

.....J.
(DIPANKAR DATTA)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
APRIL 29, 2026.