

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
Case No. CGIT/LC/RC/01/2025 Abhimanyu Singh V/S. M/s. Mahindra & Mahindra		
20.06.2025	Matter taken up. The petitioner/workman and his learned Counsel, both are not present. Management representative Mr. Dhirendra Thakur (Legal Manager) is present with learned Counsel Mr. Sajidulla Khan, files application for dismissal of the case at this stage. Heard his argument, perused record. According to management the petitioner is not a workman as defined under Section 2(s) of the Act, because he was employed managerial and supervisory capacity designated at Branch Account Manager and later as Assistant Manager Accounts. His primary duties were not manual, clerical, technical or operational but it was managerial like overseeing branch accounts ensuring compliances, supervising junior staff and taking administrative decisions. Judgment of Hon’ble Supreme Court in the case of S.K. Verma Vs. Mahesh Chandra & Another, (1983) 4 SCC 214 and Burmah Shell Oil Storage and Distribution Company Vs. Burmah Shell Management Staff Association, 1971 SC 922 has been referred in this respect. Rest of the cases referred in the petition are judgments on termination of an employee and not on the definition of workman, hence they are not relevant to the issue at hand at this time, hence are not referred. Section 2(S) of the Act, which defines Workman, is being reproduced as follows: <u>2(s)</u> “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	

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	<i>led to that dispute, but does not include any such person—</i> <i>(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</i> <i>(ii) who is employed in the police service or as an officer or other employee of a prison; or</i> <i>(iii) who is employed mainly in a managerial or administrative capacity; or</i> <i>(iv) who, being employed in a supervisory capacity, draws wages exceeding 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.....</i> Reference of judgment of Hon’ble High Court of Bombay in the case of Union Carbide (India) Ltd. V.s. Ramesh Kumbla and Others reported in MANU/MH/0073/1999 and another judgment of the same High Court in the case of Union Carbide (India) Ltd. V.s. D. Samuel and Others reported in MANU/MH/1713/1998 may be taken at this stage. In these two cases, after analyzing the judgment of various High Courts and Hon’ble Supreme Court, the Single Bench of Hon’ble Bombay High Court has summarized the principles on the basis of which it is to be decided whether the Workman is in supervisory capacity or not. These tests mentioned in Para 34 and 35 of the Judgment are being reproduced as follows: Para-34. In so far as the Apex Court is concerned, some of the tests laid down are: (1) Designation is not material but what is important is the nature of work. (2) Find out the dominant purpose of employment and not any additional duties the employee may be performing. (3) Can he bind the Company/employer to some kind of decisions on behalf of the Company/employer. (4) Has the employee power to direct or oversee the work of his subordinates. (5) Has the power to sanction leave or recommend it; and	

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	(6) Has he the power to appoint, terminate or take disciplinary action against workmen. Para-35. From the judgment of this Court and the other High Courts some of the tests apart from what the Apex Court has stated are: (a) Whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not; (b) Does the employee have powers of assigning duties and distribution of work; (c) Can he indent material and distribute the same amongst the workmen; (d) Even though he has no authority to grant leave does he have power to recommend leave; (e) Are there persons working under him; (f) Has he the power to supervise the work of men and not merely machines; (g) Does he mark the attendance of other employees; (h) Does he write the confidential reports of his subordinates. As it is the allegation in petition, the petitioner has claimed himself to be a workman under the Act. The fact whether the petitioner is a workman under the Act is a mixed question of law and fact, which can be decided only after evidence. Hence, the petition requires to be taken at final stage after evidence of parties is recorded. The management is required to file their written statement of defense after supplying copy to the petitioner/workman/ his learned Counsel till or before next date. List on 06.08.2025 for W.S. by management. Upload this Order. Presiding Officer	