

Case Comment

**CLARIFICATION OR QUANDARY? RECOGNISING
THE IMPLIED TERM OF MUTUAL TRUST AND
CONFIDENCE IN SINGAPORE**

Prashant Mudgal v SAP Asia Pte Ltd [2026] 3 SLR 914

[2026] SAL Prac 17

This case comment analyses the recent decision of the General Division of the High Court in *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914, where the court expressly recognised an implied term of mutual trust and confidence in Singapore. This position had previously been left uncertain, particularly in recent years. Here, the author provides some critical commentary in relation to this case law development while considering its implications on employment contracts in Singapore.

LIM Fang-Zhou, Noah¹

*LLB (First Class Honours) (National University of Singapore);
Advocate and Solicitor (Singapore);
Associate, Clifford Chance Pte Ltd.*

I. Introduction

1 In *Prashant Mudgal v SAP Asia Pte Ltd*² (“Prashant Mudgal”), the General Division of the High Court held that an implied term of mutual trust and confidence existed in employment contracts, providing some clarity in an area of law

1 This case comment is written in the author’s personal capacity. The views expressed in this case comment are entirely the author’s own, and any errors or mistakes remain the author’s alone. The author is grateful to Elaine Lum and the Academy Publishing team for their assistance in preparing this case comment for publication.

2 [2026] 3 SLR 914.

that had, particularly in recent times, appeared to be rather uncertain. This case note considers the reasoning of the court in *Prashant Mudgal*, while summarising the key takeaways from the decision and offering some critical commentary on aspects of the court’s reasoning.

II. Facts

2 The claimant, Prashant Mudgal (“Mr Mudgal”), was employed by a local subsidiary of SAP SE, a multinational software company, where he served in the position of “Head of Services Sales” for one of the company’s business lines in the Asia Pacific and Japan region. Over the course of his employment, there was a series of incidents which resulted in strained relations between Mr Mudgal and other senior employees within the company. As a result of his conduct during these incidents, the matter was escalated to senior management, whereupon Mr Mudgal was placed on a performance improvement plan (“PIP”). At this point in time, however, senior management had already reached “full alignment” on terminating Mr Mudgal’s employment, though this was not communicated to him.

3 Following the end of Mr Mudgal’s PIP, senior management ultimately terminated his employment in accordance with his contract of employment. Mr Mudgal subsequently brought a claim against his former employer, alleging among other things that his employer had breached two implied terms of his employment contract: (a) the term of mutual trust and confidence; and (b) the term not to engage in a termination process that was arbitrary, capricious, perverse, irrational and/or in bad faith. Mr Mudgal alleged, in particular, that his PIP was a “charade” with a “pre-ordained outcome”.³

III. Decision of the General Division of the High Court

4 The court observed that at common law, an employer was capable of *terminating* an employment “at any time, and for any

3 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [188].

reason or for none” as long as such termination was done in accordance with the terms of the employment contract.⁴ It noted that while there were authorities suggesting that contractual discretions were not wholly unfettered, this only applied to rights “subsisting within the contours of the contract” [emphasis omitted], and the “golden thread” underlying contracts was that parties remained free to exit contracts.⁵ The court thus dismissed the aspect of Mr Mudgal’s case founded on the implication of a term not to engage in a *termination process* that was arbitrary, capricious, perverse, irrational and/or in bad faith.

5 Turning to deal with the issue of the implied term of mutual trust and confidence, the court traced the genesis of the term from English case law, and observed that the court in *Cheah Peng Hock v Luzhou Bio-Chem Technology Ltd*⁶ (“*Cheah Peng Hock*”) had provided an “unequivocal pronouncement” that such a term was implied by law into all employment contracts under Singapore law.⁷ While noting that there were recent judgments suggesting that the existence of such a term remained in doubt, the court held that “the corpus of authorities in Singapore overwhelmingly supports the existence of the implied term in employment contracts under Singapore law”,⁸ while also stating that “principle and policy both militate toward the existence of such an implied term”.⁹

6 Flowing from the above, the court found that the defendant had breached this implied term of mutual trust and confidence by engaging in a PIP process under which Mr Mudgal had been “pre-judged”,¹⁰ and where the outcome of the PIP was “pre-ordained” with the intention of terminating Mr Mudgal’s employment.¹¹ However, while the court condemned the

4 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [72], citing *Leiman, Ricardo v Noble Resources Ltd* [2020] 2 SLR 386 at [125].

5 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [98]–[99], citing *Dong Wei v Shell Eastern Trading (Pte) Ltd* [2022] 1 SLR 1318.

6 [2013] 2 SLR 577.

7 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [107].

8 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [121].

9 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [123].

10 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [189].

11 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [218].

“intolerable and wholly unacceptable way” in which Mr Mudgal had been treated,¹² it went on to reject his claims for financial loss, finding that they either lacked a causal link or were too remote.¹³ Mr Mudgal was thus only awarded a sum of \$1,000 in nominal damages.

IV. Commentary and analysis

A. Increasing scrutiny of employment processes

7 One key takeaway from this decision is in relation to the role of PIPs. In recent years, there has been a discernible trend where companies seek to “manage out” unwanted staff as an alternative to implementing redundancy programmes.¹⁴ The use of PIPs, in this context, has thus been seen as a more “frictionless” way for an employer to selectively trim its workforce. This decision thus offers a stark warning against the indiscriminate use of such practices by employers.

8 Accordingly, where an employer decides to place an employee on a PIP, such a process:

- (a) must provide the employee with a genuine opportunity to improve and rectify their performance;
- (b) should be undertaken with a view towards retaining an employee as a possible outcome; and
- (c) should be properly documented so as to ensure that any decision made pursuant to a PIP is capable of standing up to scrutiny.

9 It is crucial to note that none of these requirements are intended to fetter an employer’s contractual right to terminate an employee. Thus, where an employer decides to dismiss an employee, they can continue to do so via the contractual termination

12 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [226].

13 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [288].

14 See, eg, Kaye Wiggins, “How Employers ‘Manage Out’ Unwanted Staff”, *Financial Times* (16 March 2017) <<https://www.ft.com/content/356ea48c-e6cf-11e6-967b-c88452263daf>> (accessed 6 May 2026).

provisions within the contract. It is only where employers seek to utilise such “back door” approaches to terminating an employee that potential (and arguably unnecessary) liability may arise.

B. Tracing the implied term of mutual trust and confidence

10 In *Prashant Mudgal*, the court traced the development of the implied term of mutual trust and confidence across Singapore jurisprudence, and ultimately concluded that precedent, principle and policy all militated towards finding the existence of such an implied term.¹⁵ One outlier discussed in its reasoning was the case of *Dabbs, Matthew Edward v AAM Advisory Pte Ltd*¹⁶ (“*Dabbs*”).

11 At the outset, it is crucial to clarify that *Dabbs* does not represent a *rejection* of the implied term. As was noted by the court in *Prashant Mudgal*, the court in *Dabbs* merely “pronounced that the implied term does not exist under Singapore law”.¹⁷ As will be seen, this approach reflects a difference in judicial philosophy rather than an outright rejection of the hitherto position under Singapore employment law.

12 In *Dabbs, Wong Li Kok*, Alex JC stated that he was “not minded to conclude that there is an implied duty of mutual trust and confidence in employment contracts as a matter of Singapore law”.¹⁸ This was based on the learned judge’s observation that the position under Singapore law, *per* the Appellate Division of the High Court in *Dong Wei v Shell Eastern Trading (Pte) Ltd*¹⁹ (“*Dong Wei*”), remained “an open question for the Court of Appeal to resolve in a more appropriate case”.²⁰ Crucially, the court in *Dabbs* did not indicate that it was going against the established authority of *Dong Wei*, and thus it should logically follow that the court in *Dabbs* should be understood as merely setting out the *existing* position under Singapore law, *ie*, that the implied term

15 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [111].

16 [2024] SGHC 260.

17 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [120].

18 *Dabbs, Matthew Edward v AAM Advisory Pte Ltd* [2024] SGHC 260 at [89].

19 [2022] 1 SLR 1318.

20 *Dong Wei v Shell Eastern Trading (Pte) Ltd* [2022] 1 SLR 1318 at [82].

of mutual trust and confidence remained an open question under Singapore law – rather than actively rejecting the existence of such a term.

13 For completeness, it should also be noted that in another recent case, *BGC Partners (Singapore) Ltd v Sumit Grover*,²¹ the court did not take a position on whether the implied term formed part of Singapore law. This was also a case decided by Wong JC which was referred to with approval in *Dabbs*²² without any indication that the court disagreed with the approach taken there.

14 The approaches taken by the court in *Prashant Mudgal* on one hand, and *Dabbs* on the other, arguably reflect the different judicial approaches towards resolving the ambiguity surrounding this issue. In *Dabbs*, the court declined to affirm the implication at law of the term of mutual trust and confidence in employment contracts, reasoning, among other things, that:²³

(a) the claimant had not demonstrated how the term of mutual trust and confidence was “integral to all employer–employee relationships” – this was significant since such a term, were it to be recognised, would have to be “a necessary incident of a definable category of contractual relationship”;²⁴

(b) there was a risk of the court stepping beyond its legitimate law-making function given the possible interaction of such a term with legislative frameworks; and

(c) the content of such a term, even if recognised, suffered from “significant uncertainty” and a “lack of clarity” which would adversely impact employment relationships.²⁵

21 [2024] SGHC 206.

22 *Dabbs, Matthew Edward v AAM Advisory Pte Ltd* [2024] SGHC 260 at [89].

23 *Dabbs, Matthew Edward v AAM Advisory Pte Ltd* [2024] SGHC 260 at [90].

24 *Dabbs, Matthew Edward v AAM Advisory Pte Ltd* [2024] SGHC 260 at [90], citing *Chua Choon Cheng v Allgreen Properties Ltd* [2009] 3 SLR(R) 724 at [68].

25 *Dabbs, Matthew Edward v AAM Advisory Pte Ltd* [2024] SGHC 260 at [90], citing *Cheah Peng Hock v Luzhou Bio-Chem Technology Ltd* [2013] 2 SLR 577 at [58]).

15 In contrast, the court in *Prashant Mudgal* decided to recognise the implied term of mutual trust and confidence in employment contracts notwithstanding this seeming uncertainty. Such an approach was justified by relying on a passage from *Forefront Medical Technology (Pte) Ltd v Modern-Pak Pte Ltd*,²⁶ where Andrew Phang Boon Leong J stated that:²⁷

[T]he decision of the court concerned to imply a contract ‘in law’ in a particular case *establishes a precedent* for similar cases in the future for *all* contracts of that particular type, unless of course a higher court overrules this specific decision. [emphasis in original]

16 Where the above extract is read in context, it arguably does not provide a *justification* for the implication of terms by a court – indeed, it has been observed that the court there was merely setting out the differences between terms implied in fact and terms implied in law.²⁸ It also bears iterating that in *Cheah Peng Hock* – cited in *Prashant Mudgal* as an authoritative precedent in holding that the implied term of mutual trust and confidence “has existed and continues to exist in employment contracts under Singapore law”²⁹ – the parties had not contested the existence of such an implied term; the court’s statement that “unless there are express terms to the contrary or the context implies otherwise, an implied term of mutual trust and confidence, and fidelity, is implied by law into a contract of employment”³⁰ therefore does *not* form part of its *ratio decidendi*.

17 In contrast, the need for the court to be circumspect in recognising terms implied in law was highlighted by the Court of Appeal in *Jet Holding Ltd v Cooper Cameron (Singapore) Pte Ltd*,³¹ where the court stated that:³²

26 [2006] 1 SLR 927.

27 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [116]; *Forefront Medical Technology (Pte) Ltd v Modern-Pak Pte Ltd* [2006] 1 SLR(R) 927 at [44].

28 *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) at para 06.145.

29 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [122].

30 *Cheah Peng Hock v Luzhou Bio-Chem Technology Ltd* [2013] 2 SLR 577 at [59].

31 [2006] 3 SLR(R) 769.

32 *Jet Holding Ltd v Cooper Cameron (Singapore) Pte Ltd* [2006] 3 SLR(R) 769 at [90].

[T]he category of ‘terms implied in law’ does tend to generate some uncertainty – *not least because of the broadness of the criteria utilised to imply such terms, which are grounded (in the final analysis) on reasons of public policy.* [emphasis added]

18 Given the significant role played by public policy considerations in the court’s decision on whether to recognise an implied term in law, it is thus unsurprising that the court in *Dabbs* opted for a more conservative approach in declining to recognise the implied term of mutual trust and confidence. This is particularly so given the court’s recognition of the UK’s legislative employment framework (which is largely different from Singapore’s), from which the implied term of mutual trust and confidence was developed.

19 The decision of the court in *Prashant Mudgal* to expressly affirm the existence of such a term comes with some practical difficulties even for the successful claimant who is able to invoke the term and sue on it. For one, Mr Mudgal was only awarded nominal damages notwithstanding the fact that he succeeded in proving a breach of the term by the defendant. This Pyrrhic victory resulted because the normal measure of damages in wrongful dismissal cases is “the amount which the employee would have received under the employment contract had the employer lawfully terminated the contract”,³³ and the award of nominal damages reflected that Mr Mudgal *could* have been terminated under the terms of his contract in any case.

20 In this regard, it is not clear how the breach of such an implied term would be capable of giving rise to *substantial* recoverable damages, and this stems in no small part from the court’s decision to recognise a term notwithstanding the uncertainties involved in defining the contours of the same. Put another way, if the starting point for ascertaining damages presumes lawful termination, it is hard to see how any claimant can meaningfully satisfy the elements of causation and remoteness flowing from such a breach to justify substantial damages being awarded, even in a case such as *Prashant Mudgal*

33 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [248], citing *Wee Kim San Lawrence Bernard v Robin & Co (Singapore) Pte Ltd* [2014] 4 SLR 357 at [25].

where the very basis of the claim was the unlawful termination of Mr Mudgal's employment.

C. Relational contracts

21 Another noteworthy aspect of the decision in *Prashant Mudgal* is the court's apparent endorsement of a statement from English case law that "one possible way of describing an employment contract in modern terms is as a 'relational contract'".³⁴ While it is true that the "unique nature of an employment relationship and [its] characteristics" set it apart from an ordinary contractual relationship,³⁵ the term "relational contract" imports a particular meaning into the relationship which would appear to be inconsistent with the corpus of Singapore jurisprudence.

22 Such a category of contracts was first mentioned in passing in *Johnson v Unisys Ltd*³⁶ and was properly fleshed out in the case of *Yam Seng Pte Ltd v International Trade Corp Ltd*,³⁷ where Legatt J stated that such relational contracts:³⁸

... may require a high degree of communication, cooperation and predictable performance based on mutual trust and confidence and involve expectations of loyalty which are not legislated for in the express terms of the contract but are implicit in the parties' understanding and necessary to give business efficacy to the arrangements.

23 In the time since then, English courts appear to have further developed this category of relational contracts into one requiring "an implied obligation of good faith".³⁹ In *Bates v Post Office Ltd*,⁴⁰ the court went on to set out a useful, non-exhaustive summary of the indicia through which a relational contract

34 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [138].

35 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [139].

36 [2003] 1 AC 518.

37 [2013] EWHC 111 (QB).

38 *Yam Seng Pte Ltd v International Trade Corp Ltd* [2013] EWHC 111 (QB) at [142].

39 *Bates v Post Office Ltd* [2019] EWHC 606 (QB).

40 [2019] EWHC 606 (QB).

could be identified.⁴¹ In Singapore, however, there appears to be a general dearth of case law dealing with this particular issue, though, presumably, developments in English law will continue to be influential.

24 Employment contracts may not necessarily fit into the above English statements regarding “relational contracts”. A few key points bear emphasis here.

25 First, the English law approach towards relational contracts appears to include considerations regarding a term of good faith, and recognition of such a category in Singapore would necessarily import such a term into the employment relationship. This importation of good faith into employment contracts may not be compatible with Singapore’s jurisprudence. In *Prashant Mudgal*, the court stated that “[t]he duty of good faith has been considered to be wider and more nebulous than the implied term of mutual trust and confidence”.⁴²

26 Second, from a Singapore law perspective, attempts to imply good faith into contracts have sometimes met with resistance. In *Raffles Education Corp Ltd v Shantanu Prakash*,⁴³ an attempt by the claimant to argue that good faith should be implied into a commercial joint venture agreement was rejected, as there was no gap in the agreement such that it was necessary to imply the term.⁴⁴

27 This discussion segues neatly into the last point, which is that the *effect* of recognising relational contracts remains far from clear. Indeed, this much has been acknowledged by eminent academic authority, which observes that:⁴⁵

41 See *Bates v Post Office Ltd* [2019] EWHC 606 (QB) at [725] – these characteristics of a relational contract were described as “helpful indicia” in *Essex County Council v UBB Waste (Essex) Limited* [2020] EWHC 1581 (TCC) at [106], though they are not determinative.

42 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [131], citing *Cheah Peng Hock v Luzhou Bio-Chem Technology Ltd* [2013] 2 SLR 577 at [45]–[55].

43 [2023] SGHC 89.

44 *Raffles Education Corp Ltd v Shantanu Prakash* [2023] SGHC 89 at [234].

45 Edwin Peel, *Treitel On the Law of Contract* (Sweet & Maxwell, 16th Ed, 2025) at para 6-081.

What is less clear is whether, once an agreement is recognised as a relational contract, that is sufficient for a duty of good faith to be implied. That begins to look more like the methodology for terms implied in law.

28 In other words, it is not clear whether: (a) by virtue of the court recognising a contract as a relational contract, the relevant terms of good faith and mutual trust and confidence are implied as a matter of law; or (b) the term “relational contract” merely reflects an assessment by the court that the contract before it reflects a certain set of parameters, which provides a basis for the court to imply such terms into the contract as a matter of fact.

29 The former approach would result in the term of good faith being “implied in a *general* way for *all* specific contracts that come within the purview of a broader umbrella category of contracts” [emphasis in original].⁴⁶ Given the courts’ recognition that “such an implication must not be made lightly”,⁴⁷ and that a duty of good faith cannot be implied as a matter of law under Singapore law,⁴⁸ such an approach is unlikely to be adopted.

30 This leaves only the latter approach, where the key question is “whether a reasonable reader of the contract would consider that an obligation of good faith was obviously meant or whether the obligation is necessary to the proper working of the contract”.⁴⁹ Even then, the utility of this “relational contract” label remains unclear, as the term does not simplify or even contribute towards the overall analytical process. The court will, in any case, need to grapple with the specific facts of each case as they arise, and the concept of a relational contract would appear to be extraneous in this context.

46 *Forefront Medical Technology (Pte) Ltd v Modern-Pak Pte Ltd* [2006] 1 SLR(R) 927 at [42].

47 *Rotol Projects v CCM Industrial Pte Ltd* [2014] SGHC 72 at [49].

48 *See Ng Giap Hon v Westcomb Securities Pte Ltd* [2009] 3 SLR(R) 518.

49 *UTB LLC v Sheffield United Ltd* [2019] EWHC 2322 (Ch) at [203].

V. Concluding reflections

31 Ultimately, the decision in *Prashant Mudgal* represents a significant development in Singapore's employment law landscape in so far as it provides authoritative certainty that an implied term of mutual trust and confidence exists in employment contracts within Singapore. However, some questions regarding the scope and contours of such a term remain unanswered.

32 For example, one key aspect of the judgment in *Prashant Mudgal* was that, as the term of mutual trust and confidence is an implied term, parties remain capable of modifying or excluding its operation in their contract.⁵⁰ It has been argued that public policy ought to militate against the exclusion of such a term by an employer,⁵¹ and given the strong policy grounds offered by the court in *Prashant Mudgal*,⁵² there is arguably some intuitive force that it would run counter to the very nature of an employment contract to permit an employer to entirely exclude the implied term of mutual trust and confidence altogether.

33 How such issues are ultimately resolved remains to be seen, but further opportunities to clarify the law are likely to arise as future claims will squarely engage these topical issues. Legislative intervention may also be a possibility.

50 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [157].

51 Douglas Brodie, "Beyond Exchange: The New Contract of Employment" (1998) 27(2) *Industrial Law Journal* 79, cited in Ravi Chandran, *Employment Law in Singapore* (LexisNexis, 6th Ed, 2019) at para 4.436.

52 *Prashant Mudgal v SAP Asia Pte Ltd* [2026] 3 SLR 914 at [137].