

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 100/2008

% **Date of decision: 3.3.2008**

BHAGWAN DASS Appellant
Through Mr.Sanjay Ghose, Advocate

versus

LALA RAM SARUP T.B.HOSPITAL Respondent
Through nemo

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers be allowed to see the judgment ? No
2. To be referred to the Reporter or not ? No
3. Whether the judgment should be reported in the Digest ? No

DR. MUKUNDAKAM SHARMA, CJ (oral)

1. This appeal is directed against the order dated 24th January, 2008 passed by the learned Single Judge dismissing the writ petition filed by the appellant.

2. By filing the aforesaid writ petition, the appellant challenged the award passed by the Labour Court answering the reference against the workman and in favour of the management. The appellant herein was working as Safai Karamchari with the respondent – management since 1970. On 31st May, 1987, a Staff Nurse on duty complained that the appellant was drunk and had misbehaved with her along with two other workers, namely, Bansi Lal and Ramesh.

3. On the basis of the aforesaid allegation, a departmental inquiry was conducted by the management hospital and on completion of the inquiry, the appellant was found guilty of the misconduct and an order of dismissal from service was passed against him. So far the other two accused are concerned, one was awarded punishment of withholding of two increments and the other with punishment of censure by the management.

4. In view of the aforesaid position, the appellant raised a dispute upon which a reference was made for adjudication by the industrial adjudicator, namely, the Labour Court. On receipt of the aforesaid reference, the Labour Court received the pleadings filed by the parties and thereafter recorded the evidence adduced by the parties. On completion of the trial, the learned Industrial Adjudicator passed an award holding the appellant guilty of the charge and also held that the order of dismissal passed in the case was legal and justified.

5. Being aggrieved by the said award, the appellant filed the aforesaid writ petition, where several contentions were raised by the appellant. The learned Single Judge heard the counsel for the appellant and thereafter passed the judgment and order dated 24th January, 2008 dismissing the writ petition.

6. Being aggrieved by the aforesaid order, the present appeal is filed on which we have heard the learned counsel appearing for the

appellant.

7. On going through the records and particularly the judgment and order passed by the learned Single Judge, we find that the said order contains cogent reasons and findings for coming to the conclusion that the order passed by the management was legal and justified. The learned Single Judge considered all the submissions made before him by the counsel for the appellant and has dealt in depth with all the said submissions.

8. One of the submissions, which was raised before him and also before us, is that the punishment awarded to the appellant is disproportionate to the misconduct alleged. We are, however, unable to accept the aforesaid contention for the simple reason that the appellant not only misbehaved with the Staff Nurse, but also abused her in the manner which is recorded in the impugned judgment and order. The words used by him prove and establish that he was trying to browbeat the nurse and was trying to establish his might. So far the other two co-accused are concerned, they have been let off comparatively lightly due to the fact that they had tendered their apology. So far the gravity of the offence alleged against them is concerned, the same was also less grave in comparison with that of the appellant. The findings recorded by the learned Adjudicator so far as the appellant is concerned are all findings of facts, which are also

upheld now by the learned Single Judge and, therefore, this Court sitting in appeal should not and cannot re-appreciate the evidence so as to agree with the counsel appearing for the appellant that the aforesaid findings require modification at the hands of the appellate court.

9. We are of the considered opinion that the punishment awarded is legal and just and that the appellant is guilty of misconduct as alleged against him. There is no merit in this appeal, which is dismissed.

CHIEF JUSTICE

REVA KHETRAPAL, J

MARCH 03, 2008
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