

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 12036/2009**
% **Date of Decision: 05th October, 2009**
SHRI BANS RAJ PETITIONER
! Through: Mr. Anuj Aggarwal, Advocate
VERSUS
\$ SIR GANGA RAM HOSPITAL RESPONDENT
^ Through: Nemo.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may 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**

S.N.AGGARWAL, J (ORAL)

The petitioner in this writ petition seeks to challenge an industrial award dated 22.03.2006 in I.D. No. 256/1990 by which his dismissal from the service of the respondent has been found to be legal and justified.

Heard on admission.

Mr. Anuj Aggarwal, learned counsel appearing on behalf of the petitioner, contends that the impugned award is bad because, according to him, the Inquiry Officer was biased and also because the petitioner had been acquitted in the criminal case relating to the same incident of theft for which he was charged. The petitioner was accused of committing theft of 3 blades, one iron and 2 cups of the fan and also a personal file of an ex-employee Sh. Pratap Chand while working in the respondent hospital during the night intervening 11.03.1988 and 12.03.1988. The inquiry was held against the petitioner in which he was found guilty. In fact, the petitioner had admitted his guilt in the course of fact finding

inquiry held against him. He was, therefore, removed from the service of the respondent w.e.f. 19.07.1989.

The Industrial Adjudicator vide its order dated 18.03.2006 has found that the inquiry held against the petitioner was in conformity with the principles of natural justice and, therefore, vide impugned award dated 22.03.2006 has held that the punishment of dismissal of the petitioner from service of the respondent w.e.f. 19.07.1989 was legal and justified.

The fact that the petitioner has been acquitted in the criminal case is not a ground to exonerate him of charge of theft proved in the inquiry held against him. The acquittal of the petitioner in a criminal case cannot be a ground to reinstate him in service. The allegation of bias against the Inquiry Officer made by the petitioner, is also without any substance. The only reason of bias against the Inquiry Officer alleged by the petitioner is that the Inquiry Officer had appeared for the management of the respondent in some cases before the Labour Court or in the inquiry proceedings. Merely on this allegation, it cannot be said that the Inquiry Officer was biased against the petitioner because the petitioner in the course of the proceedings before the Industrial Adjudicator could not bring any other material on record to show bias against the Inquiry Officer.

In view of the above and having regard to the facts of the case, I do not find any perversity or illegality in the impugned award that may call for an interference by this court in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution. This writ petition, therefore, fails and is hereby dismissed in limine.

OCTOBER 05, 2009
'BSR'

S.N.AGGARWAL, J