

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION No.3453 OF 2015**

The President, Samyukta Khadan Mazdoor Sangh, Kamptee Colliery, Dist.  
Nagpur.

**..vs..**

The Sub Area Manager, Kamptee Sub Area of WCL.,Kamptee Colliery,Nagpur.

.....  
Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders  
.....

Court's or Judge's Order

.....  
Mr. K.C. Deogade, advocate h/f Mr. V.S. Mishra, advocate  
for petitioner.  
Mr. Tushar Darda, advocate for respondent.

**CORAM : A.S. CHANDURKAR, J.**

**DATED : 01<sup>st</sup> JULY, 2016.**

Heard.

The challenge in the present writ petition is to the order passed by the CGIT-Cum. Labour Court, Nagpur whereby the reference made with regard to the industrial dispute pertaining to the petitioner has been decided against him. It is the case of the petitioner that he was working as 'General Mazdoor' with the respondent from 8.9.1981. On 15.1.1985 he suffered an injury during the course of service. On that count, it was his case that he was unable to discharge his duty as an underground labour and was therefore entitled to be given surface work. According to the petitioner, he was examined at the Medical College Hospital and it was certified that the petitioner was fit only

to do light work. Despite this, the respondent issued a charge sheet to him on 3.8.1991 on the ground that he remained absent from duty without sufficient cause. After holding the said inquiry, an order of dismissal dated 11.9.1999 came to be passed. On reference being made, the Tribunal, after considering the material on record, answered the same against the petitioner.

Shri K.C. Deogade, the learned counsel for the petitioner, submitted that in view of the injury suffered by the petitioner on 15.1.1985 he was not in a position to do underground duty and he should have been allotted light work. He submitted that the petitioner was examined at the Medical College Hospital and a certificate in that regard was issued to him. He then submitted that in the inquiry proceedings the charges levelled against him were denied but despite that the respondent proceeded to terminate the services of the petitioner. According to him, though it was the case of the dismissal vide order dated 11.9.1999, the petitioner has worked from 17.9.1999 till 28.9.1999. On that count the dismissal order dated 11.9.1999 could not have been said to be in existence as the petitioner has worked thereafter. He, therefore, submitted that the Labour Court was not justified in holding against the petitioner.

Shri Tushar Darda, the learned counsel for the

respondent, opposed the impugned order. According to him, the petitioner was examined by the Medical Board. It had certified that the petitioner was fit for regular duty. This certificate was not challenged by the petitioner. He submitted that the inquiry proceedings were held in a fair manner and thereafter the petitioner's services came to be terminated. He submitted that the order of termination was dated 11.9.1999 and even if the petitioner claimed to have worked for ten days thereafter, this aspect cannot have any effect on the dismissal order. He, therefore, submitted that there is no error in the impugned order.

I have heard the respective counsel for the parties and have also perused the documents filed on record. From the record it is clear that though the petitioner had been issued a certificate by a Doctor of the Medical College Hospital, the Medical Board had examined him and certified on 1.8.1986 that he was fit for regular duty. This certificate was not challenged by the petitioner. The record further indicates that the inquiry held against the petitioner was found to be legal and proper and the said issue was answered in that regard. It is on that basis that the charge of absenteeism from 6.2.1985 was held to be proved. The findings recorded in this regard are based on material available on record.

As regards the submission that the petitioner

discharged duty for about ten days after 11.9.1999, the same does not have any effect on the issuance of the order of dismissal dated 11.9.1999. Once it is found that this order has been issued after following the due procedure, it cannot be held that the same was not acted upon as the petitioner discharged duties for a short period of ten days thereafter. In view of aforesaid, I do not find any case has been made out to interfere in writ jurisdiction.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

**JUDGE**

Hirekhan

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