

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 2597 of 2002**

Bhilai Nursing Home, Opposite Mourya Talkies, Sirsa Road,
Bhilai, Through : Shri Nitin Jain, Director (Admn.)

---- Petitioner

Versus

1. Presiding Officer, Labour Court, Durg
2. Smt. Saida Begum, Wife of Shri Alias Ansari, Kurud Road,
Shivajeenagar, Near Hanif Masjid, Kohaka, Bhilai, Distt. Durg
(C.G.)

---- Respondents

For Petitioner : Mr. Malay Kumar Shrivastava, Advocate.
For Respondent No. 2: Mr. Tanuj Patwardhan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/08/2017**

Heard.

(1) The petitioner seeks to challenge the order of Labour Court dated 25.02.2002 passed in Case No.9/ID/2000 (Ref.), by which termination of respondent No. 2 has been held to be illegal and further directed for his reinstatement or in lieu thereof shall pay a compensation of Rs.50,000/- .

(2) In a dispute raised by respondent No. 2 herein the Labour Court held that the domestic enquiry to be illegal and given an opportunity to the petitioner-employer to prove the acts of misconduct.

(3) The Labour Court, found misconduct has not been proved and further found that termination of respondent No. 2 is illegal and

punishment awarded is excessive, set aside the order of termination, against which instant writ petition has been filed questioning the same.

(4) Learned counsel for the petitioner would vehemently submit that so far as charges of theft of instrument of the Nursing Home is concerned, the same has not been found proved and the Labour Court has not recorded any finding with regard to unauthorized absence and, therefore, order of reinstatement or in lieu thereof payment of compensation of Rs.50,000/- is not sustainable in law . He relied upon the judgment of Supreme Court in the matter ***Chennai Metropolitan Water Supply and Sewerage Board & others Vs. T.T. Murali Babau***¹and ***Aligarh Muslim University & others Vs. Mansoor Ali Khan***² in support of his submissions.

(5) On the other hand, counsel for respondent No. 2 supported the order impugned.

(6) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(7) The domestic enquiry was found to be illegal and the petitioner was given an opportunity to prove the misconduct; the Labour Court has clearly recorded a finding that the fact that the respondent No. 2 has stolen the instruments of the Nursing Home is not established; further recorded a finding that the petitioner is also not able to contradict the findings to that extent and, therefore, the finding recorded by the Labour Court in this regard is neither perverse nor contrary to the record and I hereby affirm the findings as recorded by the Labour Court.

(8) So far as unauthorized absence of respondent No. 2 from

1 (2014) 4 SCC 108

2 (2000) 7 SCC 529

14.06.1999 is concerned, the enquiry report is placed on record which shows that when the show cause notice dated 14.6.1999 was issued to the respondent No. 2 for her misconduct, she did not accept the same and left the job on 14.06.1999 as the allegation was made against her that she has allegedly stolen the instruments of the hospital, which has not been found proved and established before the Labour Court and it is the case of the petitioner himself that the notice was not accepted by the respondent No. 2 on 14.06.1999 and she immediately left the job of the Nursing Home.

(9) As a fallout and consequence of the aforesaid discussion, the writ petition being devoid of merit is liable to be and is hereby set aside.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-