

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11059/2015

Sharad Tatyaba Thete,
Age: 38 years, Occu: Labour,
R/o: Thete Vasti, Pravara Phata,
Tq.Rahata, District Ahmednagar. ...PETITIONER

Versus

Pravera Medical Trust,
Post Loni [Bk.], Taluka Rahata,
District Ahmednagar.
Through its Trustee / Secretary ...RESPONDENT

.....
Mr. Parag V. Barde, Advocate for Petitioner.

Mr. U.U.Wagh, Advocate for Respondent (sole).
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CORAM : T. V. NALAWADE, J.

DATED : 06TH JULY, 2017.

ORAL ORDER :-

1. The petition is filed to challenge the award passed by 2nd Labour Court, Ahmednagar, in Reference (IDA) No. 41/2009.
2. Heard both the sides.
3. Aforesaid reference was filed by present petitioner for

relief of setting aside his removal from service by respondent/ Medical Trust and for giving direction to reinstate him in the service and to pay him back wages. The petitioner was working as watchman. The complaint was made against the petitioner that, he had committed theft of mobile handset of another employee, lady doctor. During enquiry, it was noticed that the mobile handset was in possession of present petitioner. When the superior employee made enquiry with the petitioner about the allegation, incident of theft, petitioner admitted that he had stolen the mobile handset. Then the mobile handset was actually handed over by the petitioner to the Security Officer, and the record of this incident was created. Show cause notice was issued and after considering explanation offered by the petitioner, and the aforesaid admission of the petitioner, domestic enquiry was started. Necessary procedure was followed and principles of natural justice were followed for giving opportunity to the petitioner to defend the case. As the misconduct was admitted and there was the aforesaid record, the petitioner came to be terminated from service on 02.02.2009.

4. The learned counsel for the petitioner submitted that,

as subsequently the complainant had informed to the employer that there was some misunderstanding and the mobile handset was misplaced by her, lenient view ought to have been taken. This submission is not at all acceptable, as the enquiry officer is expected to consider the material which is given for proving the charge. Petitioner himself had admitted the misconduct of aforesaid nature. He was to work as watchman but his misconduct was aforesaid nature.

5. In view of these circumstances and when the employer lost the faith, in such employee, the employer cannot be compelled to continue such employee in the service. Considering right of the employer and aforesaid circumstances, this Court hold that, it is not possible to interfere in the matter. The Labour Court has dealt with every aspect of matter in detailed. In the result, petition stands dismissed.

[T. V. NALAWADE, J.]

vjg/