

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CWP-7390-2001

Managing Committee, Homoeopathic Medical College and Hospital,
Abohar ... Petitioner

Vs.

Labour Court, Bathinda and another ... Respondents

2. CWP-11633-2001

Managing Committee, Homoeopathic Medical College and Hospital,
Abohar ... Petitioner

Vs.

Labour Court, Bathinda and another ... Respondents

3. CWP-14781-2001

Veena Kumari ... Petitioner

Vs.

Managing Committee, Homoeopathic Medical College and Hospital,
Abohar and another ... Respondents

4. CWP-14931-2001

Smt. Veena Rani ... Petitioner

Vs.

Managing Committee, Homoeopathic Medical College and Hospital,
Abohar and another ... Respondents

Date of Decision:05.04.2018

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Vishal Khatri, Advocate
for the management.

Mr. H.C. Arora, Advocate
for the workman.

P.B. BAJANTHRI J. (Oral)

By this common judgment, all the aforementioned writ petitions shall be decided together being against the same award.

2. In these bunch of writ petitions both the workmen as well as management filed petitions challenging the award passed by the Labour

Court dated 16.01.2001. Respondents-workwoman was placed under

suspension on 10.10.1994 on certain alleged misconduct committed by her while discharging the duties of the post held by her with the management. Consequently, disciplinary proceedings have been initiated wherein management held that charges levelled against the workwoman were proved. Thereafter, order of termination was issued with retrospective effect from the date workwoman was placed under suspension namely 10.10.1994. Feeling aggrieved by the order of termination, workwoman raised industrial dispute. Dispute was decided by the Labour Court on 16.01.2001 in favour of the workwoman to the extent of reinstatement with continuity of service without backwages. Thus, workwomen as well as management presented these petitions in challenging the award.

3. Learned counsel for the workwomen submitted that in the claim statement there is a specific statement that the workman is unemployed since the date of termination. The said issue is not apprised by the Labour Court. However, Labour Court proceeded to pass orders that management run a charitable institution and it is not for the profit. Therefore, workman is not entitled to back wages. Such reasoning is arbitrary and illegal and so also contrary to the claim statement. Consequently, workwoman is entitled to full back wages when once the Labour Court has drawn inference that the order of termination is not in accordance with law.

4. On the other hand, learned counsel for the management submitted that on 8.10.1994 one Smt. Bhupender Kaur-MW-1 gave a complaint relating to misbehaviour by the workwoman. When she had gone for taking treatment, workwoman abused complainant. The same has been taken into consideration for the purpose of holding inquiry and she was found guilty of misconduct and same has been taken on record while

terminating her services. The conduct of the workwoman has not been appreciated by the Labour Court and only procedural lapses have been taken into consideration as narrated in para-12 of the award. Such procedural lapse would not be hurdle for termination. Therefore, Labour Court has erred in extending the benefit of reinstatement with continuity of service. Further workman is not entitled to back wages in view of her conduct with the patient.

5. At this stage, learned counsel for the parties submitted that award dated 16.1.2001 has been implemented on 2.7.2001 insofar as reinstatement is concerned. Further during pendency of this petition, workwoman-Veena Rani was dismissed from service. Whereas workwoman Veena Kumari has attained the age of superannuation and retired from service in the year 2013

6. Heard learned counsel for the parties.

7. Perusal of the award in particularly para-12, it is evident that before ordering of termination, inquiry was not held appropriately. Therefore, there is no infirmity in the award passed by the Labour Court. Insofar as extending the benefit of back wages is concerned, it is to be noted that there were serious misconduct committed by the workwoman. In other words, she has misbehaved with a patient. In fact, it is a matter for remand, having regard to the length of complete litigation. However, at this stage, it is not appropriate to remand the matter for holding inquiry. That apart, 1st workwoman is dismissed from service in another disciplinary proceedings. When the order of termination is held to be bad, in that event, workwoman is entitled to back wages.

8. In view of these facts and circumstances, workwoman is

entitled to 50% back wages from the date of termination during the intervening period from 24.3.1995 to 16.1.2001 (the date of termination and upto the date of award passed by the Labour Court).

9. Petitions stands disposed of accordingly.

05.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**