

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPL No. 422 of 2010**

1. Ram Krishna Sharda Sewa Ashram, Through Secretary, Ramkrishna Sewa Ashram, Dharampura, Jagdalpur, District Bastar, Chhattisgarh
2. Chief Manager/Secretary, Vivekanand Tribal Hospital, Dharampura, Jagdalpur, District Bastar, Chhattisgarh

**---- Petitioners****Versus**

1. Smt. Nandani Mourya, W/o. Shri Chandra Singh Mourya, R/o. Village Aghanpur, Dharampura No.1, Tehsil Jagdalpur, District Bastar, Chhattisgarh
2. Labour Court, Jagdalpur, Chhattisgarh

**----Respondents**


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|---------------------|---|---------------------------------------------------------------------------|
| For Petitioners     | : | Mr. Prafull N. Bharat, Sr. Advocate along with Mr. Akash Pandey, Advocate |
| For Respondent No.1 | : | Mr. Avinash K. Mishra, Advocate                                           |

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**Hon'ble Shri Justice P. Sam Koshy**  
**Order on Board**

**21/09/2021**

1. The petitioner a charitable institution in the name of 'Ram Krishna Sharda Sewa Ashram' has filed a writ petition assailing the award of the Labour Court dated 28.02.2009 pronounced on 30.11.2009 in case No. 12/I.D.Act/Reference/2005. Vide the impugned award the Labour Court has answered the reference in favour of the respondent No.1 granting the relief of reinstatement in service.

2. The writ petition has been pending before this Court since 2010. Today when the matter is taken up for final hearing, it has been brought to the notice of this Court through an order passed by this Court in a contempt proceedings i.e. Contempt Case Nos. 341/2019 and 342/2019 that at the behest of this Court the petitioner No.2-establishment was got inspected through the District Collector and the District Collector has submitted his report before this Court dated 31.10.2019. In his report the District Collector has given a specific finding that upon an inspection of the hospital, it was found that the hospital has been lying closed since October, 2017. This aspect has not been controverted or disputed by the counsel for the respondent also.
3. Given the fact all that this Court now needs to consider is in the factual backdrop of the hospital being closed, what relief can now be provided to the respondent No.1 pursuant to the award which stands decided in her favour.
4. The present writ petition was filed on 21.01.2010 i.e. immediately after the pronouncement of the award on 30.11.2009. Since then the writ petition has been pending. The writ petition was entertained by this Court immediately on 29.01.2010 itself. Under the provisions of the I.D. Act, the moment an award passed by the Labour Court, the employer has to mandatorily comply with the provisions of Section 17-B of the Industrial Disputes Act. Section 17-B clearly envisages that pending the petition before the High Court or the Hon'ble Supreme Court as the case may be, where the challenge is to an award of the Labour Court and the award being that of reinstatement, the employer

has to either take back the employee in service or in the alternative pay him the last wage drawn.

5. In the instant case admittedly the respondent No.1 was not taken back in service for a considerable period of time and it is only at the intervention of this Court that the respondent No.1 was finally permitted to join in April, 2017. This in other words mean that from the date of pronouncement of the award till the respondent No.1 was actually given joining in April, 2017 i.e. from 30.11.2009 to March, 2017 the respondent No.1 would be entitled for the last wage drawn and from April, 2017 till the institution was closed in October, 2017 the respondent No.1 would be entitled for the actual salary which the respondent No.1 was drawing or was entitled for.
6. Now that the institution has already been closed since October, 2017, the question of further employment of the respondent No.1 or continuity of her service does not arise any further. Therefore, without interfering with the award of reinstatement, the present writ petition in order to bring it to a logical end, the writ petition at this juncture stands disposed of directing the petitioners to ensure that the respondent No.1 is paid the last wage drawn from 30.11.2009 till March, 2017 and from April, 2017 to October, 2017 the respondent No.1 should be paid current wage prevailing at that point of time. This compliance has to be done after due verification of the facts as to whether the respondent No.1 during the intervening period was in fact paid any last wage drawn in compliance of Section 17-B or not, as also in respect of the salary from April, 2017 to October, 2017. Let this order be complied with within an outer limit of 60 days.

7. In the event if there is a non-compliance of the said direction by this Court, the respondent No.1 would have the liberty to approach the concerned Labour Court for the execution of the order passed by this Court.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-  
**(P. Sam Koshy)**  
**Judge**

Ved