



[3257]

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**WEDNESDAY, THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

WP.Nos.1844 AND 20970 OF 2004

WP NO: 1844 OF 2004

Between:

Karnataka Antibiotics & Pharmaceuticals Limited, a Govt. of India Enterprise having its Registered and Corporate Office at 80 Feet Road, 1st Block, Rajajinagar, Bangalore-560 010 rep., by its Regional Sales Manager, Mr.P.Seshagiri Rao

...PETITIONER

AND

1. The Presiding Officer, Addl.Labour Court, 1st Floor, Chandravihar, M.J.Market Road, Hyderabad-500 001.
2. M.Prabhakar, s/o K.K.Nair, r/o H.No.11-3-385, Srinivasanagar, Secunderabad-500 361.
3. The Officer on Special Duty, Labour, Employment, Training and Factories (Lab.) Department, Government Secretariat, Hyderabad.
4. The Commissioner of Labour, Andhra Pradesh, T.Anjaiah Karmika Bhavan, RTC X Roads, Hyderabad-500 020.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to

(a) call for the records pertaining to the impugned Award dated October 15, 2003 in I.D.No.47 of 1995 passed by the respondent No.1 viz., the Presiding Officer, Addl.Industrial Tribunal-cum-Labour Court and published by the respondent no.3 herein vide G.O.Rt.No.23350 dated December 3, 2003 on 22nd December, 2003 and



(b) quash the same by the issuance of a writ, more particularly in the nature of a writ of certiorari or any other appropriate writ, order or direction as this Honble Court may deem fit and proper and pass such other further order(s) as this Honble Court may deem fit and proper including awarding costs to the petitioner and render justice

I.A. NO: 1 OF 2004(WPMP. NO: 2404 OF 2004)

Petition under Sect on 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of impugned Award dated October 15, 2003 passed by the respondent No.1, viz., the Presiding Officer, Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad in I.D.No.47 of 1995 and published by the respondent No.3 herein vide G.O.Rt.No.2350 dated December, 3, 2003 on 22nd December, 2003 pending disposal of the writ petition while holding that the provisions of Section 17-B of the I.D.Act do not apply on the facts of the present case

Counsel for the Petitioner: SRI G. V. S. GANESH

Counsel for Respondents: GP FOR LABOUR

WP NO: 20970 OF 2004

Between:

M.Prabhakar, S/o.K.K.Nair R/o.H.No.11-3-385 Srinivasanagar, Secunderabad - 5000361.

AND

...PETITIONER

1. The Addl. Industrial Tribunal-Cum-Addl. Labour Court, rep. by its Chairman, 1 Floor Chandravihar, M.J.Road, Hyderabad.
2. Karnataka Antibiotics and Pharmaceuticals Limited, rep. by its General Manager- HRD 80 Feet Road, 1st Elock Rajajinagar, Bangalore.
3. Karnataka Antibiotics and Pharmaceuticals Limited, rep. by its Regional Sales Manager, 43, Vikrampur, Picket, Secunderabad.

...RESPONDENTS



2026:TSHC:13899

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari and quash the Award dated 15.10.2003 in I.D.No.47/95 to the extent of not granting full back wages and ordering for stoppage of two annual increments with cumulative effect and consequently to direct the management to reinstate the petitioner into service with full back wages and all other attendant benefits, to call for the records on the file of the Addl.Industrial Tribunal-cum-Addl.Labour Court at Hyderabad

I.A. NO: 1 OF 2004(WPMP. NO: 27465 OF 2004)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an interim orders directing, posting of the writ petition along with W.P.No.1844/2004 for final hearing.

Counsel for the Petitioner: SRI ABID HUSSAIN

Counsel for Respondent No. 1: GP FOR LABOUR

Counsel for Respondent Nos. 2 & 3: SRI G V S GANESH

The Court made the following: COMMON ORDER

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2026:TSHC:13899

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT
HYDERABAD

THE HONOURABLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION Nos.1844 & 20970 of 2004

DATED: 06th MAY, 2026

Between:

Karnataka Antibiotics and Pharmaceuticals Limited ...Petitioner

AND

Presiding Officer Hyderabad and three others ...Respondents

COMMON ORDER:

The Writ Petition No.1844 of 2004 has been filed by the petitioner seeking the following relief:

"(a) call for the records pertaining to the impugned Award dated October 15 2003 in I.D.No.47 of 1995 passed by the Respondent No.1 viz the Presiding Officer, Addl Industrial Tribunal-cum-Labour Court and published by the respondent No.3 herein vide G.O.Rt.No.23350, dated December 3, 2003 on 22nd December, 2003; and (b) quash the same by the issuance of a writ, more particularly in the nature of a writ of certiorari or any other appropriate writ order or direction as this Hon'ble Court may deem fit and proper and pass such other further order(s) as this Hon'ble Court may deem fit and proper including awarding costs to the petitioner and render justice"

02. The Writ Petition No.20970 of 2004 has been filed by the petitioner seeking the following relief:



"...to issue a writ order or direction more particularly one in the nature of writ of Certiorari and quash the Award dated 15.10.2003 in I.D.No.47 of 1995 to the extent of not granting full back wages and ordering for stoppage of two annual increments with cumulative effect and consequently to direct the management to reinstate the petitioner into service with full back wages and all other attendant benefits, to call for the records on the file of the Addl Industrial Tribunal-cum-Addl Labour Court at Hyderabad and to pass..."

03. For the sake of convenience, the petitioner in W.P.No.1844 of 2004 is hereinafter referred to as the "Company", and the petitioner in W.P.No.20970 of 2004 as the "Workman". Since the parties in both the writ petitions are one and the same, having instituted proceedings against each other, and as both writ petitions arise out of and challenge the same impugned Award, they are being disposed of by this common order.

04. Heard Sri G.V.S. Ganesh, learned counsel for the petitioner-company, and Sri Abid Hussain, learned counsel for the petitioner-workman, as well as the learned Government Pleader for Labour. Perused the material available on record.

05(a). It is the case of the Company that it is a Government of India undertaking engaged in the manufacture and sale of



pharmaceutical products and life-saving drugs. The workman was employed as a Professional Service Representative, and one of the conditions of his service was that he was liable to be transferred anywhere in India.

05(b). It is further stated that the workman was a member of the A.P. Medical and Sales Representatives Union (APMSRU), which is not a recognized union insofar as the Company is concerned. One Mr.P.Bhaskar, a Professional Service Representative employed by the Company, was transferred to Cuddapah. In protest against the said transfer, the workman, along with about 30 members of APMSRU, allegedly indulged in riotous and disorderly behaviour, including abusing, jostling, pushing, and threatening the superior officers of the Company.

05(c). Consequently, a charge sheet was issued to the workman. The charges levelled against him, if proved, constituted misconduct under the Certified Standing Orders of the Company, namely Standing Orders 21.01, 21.25, 21.27, and 21.35. The workman submitted his explanation, which was found to be unsatisfactory. Thereafter, the Company initiated a domestic enquiry, in which the workman fully participated and availed the



assistance of a co-employee of his choice, namely Mr. H.V. Nerlekar. Upon completion of the enquiry, the Enquiry Officer submitted his report holding that the charges levelled against the workman were proved. The Company, having framed the Karnataka Antibiotics & Pharmaceuticals Limited Conduct, Discipline and Appeal Rules, issued a second show-cause notice to the workman, calling upon him to explain as to why the punishment of dismissal from service should not be imposed.

05(d). In response, the workman submitted his explanation alleging that the Management was acting with mala fide intention and that he was being victimised for his union activities. However, considering the gravity of the proved misconduct, the Company dismissed the workman from service. Aggrieved thereby, the workman preferred an appeal before the Managing Director of the Company, which came to be rejected by the Appellate Authority. Thereafter, the workman filed an application under Section 2-A(2) of the Industrial Disputes Act before the learned Additional Industrial Tribunal, which was numbered as I.D. No. 47 of 1995. Upon receipt of notice, the Company entered appearance and filed its counter.



The workman also filed an additional affidavit raising certain further grounds, to which the Company filed its reply.

05(e). The learned Tribunal, upon consideration of the rival contentions, passed an order holding that the domestic enquiry conducted by the Company was vitiated. Challenging the said order, the Company filed Writ Petition No. 6898 of 1996 before this Court. During the pendency of the said writ petition, the learned Tribunal proceeded to record evidence and ultimately passed an Award directing reinstatement of the workman with continuity of service, full back wages, and other attendant benefits. Aggrieved by the said Award, the Company filed Writ Petition No. 20664 of 1998 before this Court, wherein this Court remitted the matter to the learned Tribunal for reconsideration on certain aspects. Pursuant thereto, the learned Tribunal passed the impugned Award directing reinstatement of the workman with continuity of service, awarding 50% back wages, withholding two annual increments with cumulative effect, and granting all consequential benefits.

06(a). Learned counsel for the Company submitted that the impugned Award is erroneous, perverse, and suffers from errors apparent on the face of the record. It is contended that the learned



Tribunal has failed to appreciate the well-settled legal position that strict rules of evidence are not applicable either to domestic enquiries or to proceedings before quasi-judicial authorities such as Industrial Tribunals or Labour Courts. Such authorities are required to be guided by the existence of some material evidence, sufficient to establish a case on the touchstone of preponderance of probabilities.

06(b). It is further submitted that the learned Tribunal erroneously proceeded to evaluate the evidence as though it were adjudicating a criminal trial, applying principles akin to those under the Indian Evidence Act. In proceedings before an Industrial Tribunal, it is well settled that the provisions of the Evidence Act do not strictly apply, nor is the standard of proof required in criminal cases applicable to such quasi-judicial proceedings.

06(c). Learned counsel further contend that the approach adopted by the learned Tribunal clearly demonstrates that it has misdirected itself in law and has failed to adhere to the specific directions issued by this Court while remanding the matter, which required the Tribunal to assess the evidence in accordance with the



principles governing domestic enquiries and quasi-judicial adjudication.

06(d). It is further submitted that the learned Tribunal has gone astray in its analysis of the evidence by disregarding the un rebutted material on record and by taking into consideration wholly irrelevant factors. The impugned Award, therefore, is vitiated by a patent misapplication of legal principles as well as non-compliance with the binding directions of this Court upon remand. On these grounds, learned counsel for the Company prayed that the Writ Petition be allowed and the impugned Award be set aside.

06(e). In support of his submissions, the learned counsel for the company relied upon a decision of the Hon'ble Supreme Court in ***Onkar Nath Misra v. State of Haryana and another***¹ wherein it was held at Paragraph Nos.3 and 5 that:

"3. The award of the Labour Court came to be challenged by the appellant and one Megh Singh by way of two writ petitions before the Punjab and Haryana High Court which by a common judgment dismissed both the writ petitions. The High Court in the course of its order agreed with the Labour Court that the evidence produced by the management marked as Ext. M-6 as also the documentary evidence Exts. M-11 to M-15 coupled with the evidence of

¹ (2005) 3 Supreme Court Cases 736



Shri B.K. Uppal, Vice-President clearly established the misconduct alleged against the writ petitioners before it. Learned counsel appearing for the petitioners had argued before the High Court that the Labour Court discriminated between them and Pradeep Sharma whose punishment was not upheld by the Labour Court even though the evidence in regard to all of them stood on a similar footing. The High Court agreed with the finding of the Labour Court that the case of the petitioners before it and Pradeep Sharma did not stand on the same footing inasmuch as from the material produced before the Labour Court it was clear that Pradeep Sharma was falsely involved, while the misconduct alleged against the writ petitioners had been duly established. It also did not accept the argument of the learned counsel for the petitioners that the punishment was in any manner disproportionate to the misconduct proved.

5. Learned counsel appearing for the appellant seriously contended that from the entire material produced before the Labour Court in the form of Exts. M-11 to M-15 as well as the evidence of Pritam Singh and B.K. Uppal, the management had failed to establish the alleged misconduct. He also contended that there was absolutely no difference in the evidence produced by the management between the case of the appellant and Pradeep Sharma who has been granted relief by the Labour Court. Per contra, the learned counsel appearing for the respondent pointed out that the Labour Court has taken into consideration the evidence brought on record during the domestic enquiry as also the material available before it and has rightly come to the conclusion that so far as the appellant is concerned his involvement in the gherao was clearly proved. He submitted that the fact that Pradeep Sharma, the other workman was



exonerated of the misconduct alleged against him would not by itself further the case of the appellant in any manner, hence, the appellant is not entitled to relief in this appeal."

06(f). Further, he upon a decision of the Hon'ble Supreme Court in ***M/s. Francis Klein & Co. (P) Ltd., v. Their workmen and another***² wherein it was held at conclusion of Paragraph No.3 that:

".....In our view when an employer loses confidence in his employee particularly in respect of a person he is discharging an office of trust and confidence there can be no justification for directing his reinstatement....."

06(g). Further, he upon a decision of the Hon'ble Supreme Court in ***The Workmen of M/s. Firestone Tyre and Rubber Co. of India (Pvt.) Ltd., v. The Management and others***³ wherein it was held at Paragraph No.53 that:

"53. We have indicated the changes effected in the law by Section 11-A. We should not be understood as laying down that there is no obligation whatsoever on the part of an employer to hold an enquiry before passing an order of discharge or dismissal. This Court has consistently been holding that an employer is expected to hold a proper enquiry according to the Standing Orders and principles of natural justice. It has also been emphasised that such an enquiry should not be an empty formality. If a proper enquiry is conducted by an employer and a correct finding arrived at regarding the misconduct, the Tribunal, even though it has

² (1972) 4 Supreme Court Cases 569

³ (1973) 1 Supreme Court Cases 813



now power to differ from the conclusions arrived at by the management, will have to give very cogent reasons for not accepting the view of the employer. Further by holding a proper enquiry, the employer will also escape the charge of having acted arbitrarily or mala fide. It cannot be overemphasised that conducting of a proper and valid enquiry by an employer will conduce to harmonious and healthy relationship between him and the workmen and it will serve the cause of industrial peace. Further it will also enable an employer to persuade the Tribunal to accept the enquiry as proper and the finding also as correct."

07(a). On the other hand, it is the case of the workman that he was appointed in the services of the Company in October, 1987, and had discharged his duties continuously and satisfactorily without any adverse remarks. It is contended that upon his joining the A.P. Medical and Sales Representatives Union (APMSRU) and actively participating in its activities, he became an eyesore to the Management.

07(b). It is further stated that the Management issued a charge sheet dated 10.08.1992, to which the workman submitted his explanation denying all the allegations. However, according to the workman, a domestic enquiry was conducted in a mechanical and biased manner, without affording him a fair and proper opportunity. Thereafter, he was dismissed from service by order



dated 15.11.1993. Aggrieved by the said dismissal, the workman raised an industrial dispute, and the learned Labour Court, by its Award dated 15.04.1998, directed the Management to reinstate him into service with full back wages and all attendant benefits. Challenging the said Award, the Management filed Writ Petition No. 20664 of 1998 before this Court, wherein the matter was remanded to the learned Tribunal for fresh consideration.

07(c). Pursuant thereto, the learned Tribunal reconsidered the matter and passed the impugned Award dated 15.10.2003, directing reinstatement of the workman with continuity of service, awarding 50% back wages, and imposing the penalty of withholding two annual increments with cumulative effect.

08(a). Learned counsel for the workman submitted that the learned Tribunal, having categorically held that no misconduct was proved against the workman, ought to have granted full back wages without imposing the penalty of withholding two annual increments. It is contended that the partial denial of back wages and imposition of penalty is unsustainable in law and contrary to the findings recorded by the Tribunal.



08(b). It is further submitted that, according to the Management, the alleged incident took place on 26.06.1992; however, no charge sheet was issued immediately thereafter, and, in fact, the charge sheet came to be issued only on 18.08.1992, after an inordinate and unexplained delay of more than 50 days, which casts serious doubt on the genuineness of the allegations.

08(c). Learned counsel further contended that the presence of Mr. Nayeem and Mr. P. Seshagiri Rao, who were officials unconnected with the workman and had no official duty on the said date, clearly indicates that their presence was procured with an ulterior motive to create false evidence against the workman.

08(d). It is also contended that, on 26.06.1992, the workman had duly discharged his official duties, submitted his expense report, and the same was sanctioned and paid on the recommendation of Mr. Kurup. Further, the workman had submitted his daily report evidencing the work performed on the said date.

08(e). It is pointed out that the workman was granted an increment on 01.07.1992 in recognition of his satisfactory performance, and had there been any such incident on 26.06.1992,



the Management would not have sanctioned the said increment. This circumstance, according to the learned counsel, clearly belies the case of the Management. It is thus contended that the alleged misconduct was falsely concocted with mala fide intention, solely on account of the workman's active role as an office bearer of the Union and his efforts in espousing the grievances of fellow employees. The workman, having committed no misconduct, was unjustly dismissed from service without any fault on his part. Therefore, learned counsel for the workman prayed that this Court be pleased to allow the Writ Petition by setting aside the punishment imposed by the learned Tribunal and to grant full consequential benefits.

08(f). In support of his submissions, the learned counsel for the workman relied upon a decision of the Hon'ble Supreme Court in **Allahabad Bank and others v. Krishan Pal Singh**⁴ wherein it was held at Paragraph No.8:

"8. The directions issued by the High Court of Allahabad for reinstatement were stayed by this Court on 23.08.2019. During the pendency of these proceedings, the respondent – workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on

⁴ Civil Appeal No. of 2021 (Arising out of Special Leave Petition (C) No. 19648 of 2019



record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation. We accordingly direct payment of lump sum compensation of Rs.15 lakhs to the respondent, within a period of eight weeks from today. Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% per annum, till payment."

09. This Court, by interim order dated 03.02.2004 passed in W.P.M.P.No.2404 of 2004 in W.P.No.1844 of 2004, directed as follows:

"There shall be an interim suspension of the Award, except to the extent of reinstatement of the workman into service, on condition of the petitioner depositing 50% of the back wages as awarded by the Labour Court, within six weeks from today. Upon such deposit, the workman shall be permitted to withdraw the same without furnishing any security."



10. Subsequently, this Court, by further interim order dated 29.04.2005 passed in W.P.M.P.No.7660 of 2005 in W.P.No.1844 of 2004, after hearing the learned counsel for the petitioner, issued the following direction:

"Heard the learned counsel for the petitioner. Issue interim direction to the writ petitioner to comply with Section 17-B of the Industrial Disputes Act."

11. The Company filed a review application in W.P.M.P.No.15263 of 2005 seeking review of the aforesaid interim order dated 29.04.2005. However, the said review application came to be dismissed by order dated 18.10.2005.

12. Having regard to the rival submissions made on either side and upon perusal of the material available on record, it is evident that the workman was terminated from the services of the Company by order dated 15.11.1993, pursuant to the charge sheet dated 18.08.1992. Aggrieved by the said order of termination, the workman raised an industrial dispute in I.D. No. 47 of 1995 before the learned Labour Court, which, by its Award dated 15.04.1998, directed reinstatement of the workman into service with full back wages.



13. Challenging the said Award, the Company filed Writ Petition No.20664 of 1998 before this Court. This Court, by order dated 28.03.2003, remanded the matter to the learned Tribunal for fresh consideration on the issue as the validity of the penalty imposed against the workman by the company in the light of the evidence led before the learned Tribunal by the management. This Court also directed the Company to deposit the amount payable under Section 17-B of the Industrial Disputes Act in a nationalised bank, in terms of the directions issued by the Hon'ble Division Bench in its order dated 13.04.1999 passed in W.A.No.414 of 1999, and further directed that the workman shall not withdraw the accrued interest, subject to the outcome of the proceedings upon such reconsideration.

14. Aggrieved by the order dated 28.03.2003 passed in W.P.No.20664 of 1998, the workman preferred Writ Appeal No.1216 of 2003. The Hon'ble Division Bench, by its judgment dated 21.07.2003, dismissed the said Writ Appeal, thereby confirming the order of remand, and further directed the learned Tribunal to dispose of the matter afresh within a period of three months. Pursuant thereto, the learned Tribunal reconsidered the



matter and ultimately passed the impugned Award dated 15.10.2003, directing reinstatement of the workman into service with 50% back wages, while imposing the penalty of withholding two annual increments with cumulative effect.

15. In view of the above background of the case, the issues arise for determination are whether the findings of the learned Tribunal suffer from perversity warranting interference at the instance of the company and whether the workman is entitled to full back wages and setting aside of the punishment of withholding increments. At the outset, it must be noted that the scope of judicial review under Article 226 of the Constitution of India, in matters arising out of Industrial Adjudication is limited. This Court does not sit as an appellate authority over the findings of fact recorded by the learned Tribunal unless such findings are perverse, based on no evidence, or suffer from patent illegality.

16. As borne out from the record, the learned Tribunal categorized the charges against the workman into four distinct events. The first allegation was that, on 26.06.1992, the workman, along with about 30 members of APMSRU, gheraoed Mr. Kurup, Mr. M.Y. Nayeem, and Mr. P. Seshagiri Rao, abused them, and



prevented them from carrying out their official duties at NIMS, declaring that they were “freezing” their work. The second allegation was that the workman and others forcibly attempted to obstruct the said officers from discharging their duties, prevented them from entering the Cardiac Ward, and did not allow them to meet the doctors. The third allegation was that the workman and others entered the chambers of doctors and requested them not to grant interviews to the managers of the Company and not to prescribe the Company's products. The fourth allegation was that, due to such unlawful activities, Mr. Kurup and the other officials were unable to carry out any work.

17. Before the learned Tribunal, the workman examined himself as WW1, while Mr. M.Y. Nayeem and Mr. P. Seshagiri Rao were examined as MW1 and MW2, respectively. During the course of their evidence, certain material inconsistencies emerged. While MW1 stated that security guards were present at NIMS, MW2 deposed that there were no such security personnel. It is, however, an admitted position that in a hospital like Nizam's Institute of Medical Sciences (NIMS), even attendants of patients are required to carry passes for entry into specific departments, thereby



indicating the presence of security arrangements. In that context, the allegation that 25–30 persons prevented Mr. Kurup, along with MW1 and MW2, from entering the Cardiac or Orthopaedic Wards raises serious doubt, particularly as the Management failed to explain how such a large group could have entered and obstructed officials without any intervention from security personnel. Significantly, both MW1 and MW2 admitted that they had, in fact, entered the hospital premises and reached the vicinity of the Cardiac and Orthopaedic Wards.

18. Further, MW1 deposed that the workman and others went to the doctors' chambers and requested them not to grant interviews or prescribe the Company's products, and that, owing to such conduct, MW1 and MW2 left the hospital without performing their duties. However, MW1 also admitted that he did not personally witness the workman or others speaking with the doctors. MW2, on the other hand, stated that he was unsure whether the doctors even heard such requests and that he did not know what impression, if any, was created in the minds of the doctors due to the alleged conduct. In light of such evidence, the



learned Tribunal found it doubtful whether the alleged incident could have occurred in the manner suggested by the Management.

19. On the other hand, the workman, examined as WW1, deposed that by the time he reached the hospital, Mr. Kurup, Mr. Nayeem, and Mr. Seshagiri Rao were already present. He categorically denied preventing them from discharging their duties, as alleged in the charge sheet, and stated that he was not concerned with the other individuals. He asserted that he carried out his normal duties and that no such incident occurred. He further stated that Mr. Kurup had, in fact, met the doctors, namely Dr. K.R. Shamsunder and Dr. Y. Laxman Rao, in the Cardiac Ward. The workman also deposed that he submitted his expense report for the said date which was duly approved and reimbursed on the recommendation of Mr. Kurup, and that he submitted his daily report for the work performed on 26.06.1992. He further stated that NIMS had strict security protocols, with security personnel regulating entry, and that no one could enter sensitive areas such as the Cardiology Department without proper authorization. He asserted that if any such incident had taken place, the security personnel or police would have taken appropriate action. He also pointed out that



no complaint or notice regarding the alleged incident was issued to him prior to 19.08.1992, and that he continued to discharge his duties uninterrupted until 24.07.1992.

20. Significantly, MW1 did not dispute the submission of the expense report by the workman or the payment made on 26.06.1992. The workman further relied upon documentary evidence, including the daily report dated 27.06.1992, which made no reference to any incident on the previous day. It was also brought on record that the workman was granted an increment on 01.07.1992 in appreciation of his performance. The learned Tribunal observed that, had any such serious incident occurred on 26.06.1992, the Management would not have sanctioned such an increment within a short span of four working days.

21. The learned Tribunal also took note of the unexplained delay of more than 50 days in issuing the charge sheet, i.e. from 26.06.1992 to 18.08.1992, which, in its view, cast serious doubt on the veracity of the allegations and weakened the oral testimony of MW1 and MW2. Consequently, it held that the documentary evidence produced by the workman outweighed and effectively discredited the oral evidence adduced by the Management. The



learned Tribunal further observed that, although MW1 and MW2 claimed to have lost confidence in the workman, no material was placed on record to substantiate the circumstances under which such loss of confidence arose. Ultimately, the learned Tribunal held as follows:

"The plea of loss of confidence must have a direct nexus to the employee having misused his position of trust, rendering it undesirable to retain him in service. Loss of confidence in the integrity of an employee must be substantiated by cogent evidence before the Labour Court. If, upon appreciation of the material on record, no such cogent evidence is found, the workman would be entitled to reinstatement. In the present case, the material on record clearly establishes that the major charges framed against the workman have not been proved. It also discloses that the prescribed procedure was not strictly followed in issuing the charge sheet, appointing the Enquiry Officer, and passing the order of dismissal. At best, the evidence of MW1 and MW2 only establishes that the workman and some others obstructed them near the scooter stand while entering the hospital; however, both witnesses have categorically stated that they ultimately entered the Cardiac and other wards. Thus, the misconduct, if any, is proved only to that limited extent."

22. Upon a comprehensive analysis of the material on record, the sum and substance is that the workman was dismissed from service pursuant to the charge sheet dated 18.08.1992, which led to protracted litigation, including a remand by this Court and its



affirmation by the Division Bench in W.A.No.1216 of 2003. Pursuant to the remand, the learned Tribunal examined the allegations by classifying them into distinct events said to have occurred on 26.06.1992 at NIMS. On appreciation of the evidence, the learned Tribunal found material inconsistencies in the testimonies of MW1 and MW2, particularly with regard to the presence of security personnel and the plausibility of the alleged incident involving a large group entering restricted hospital premises. The learned Tribunal also considered the evidence of the workman (WW1), who denied the allegations and substantiated his defence through contemporaneous documentary evidence, including expense reports, daily reports, and the grant of an increment shortly after the alleged incident. The unexplained delay in issuance of the charge sheet and absence of contemporaneous records were also taken into account. On such evaluation, the learned Tribunal held that the documentary evidence adduced by the workman outweighed the oral testimony of MW1 and MW2, and that the principal charges were not proved. It further held that the plea of "loss of confidence" was not supported by cogent evidence and cannot be sustained in the absence of established misconduct affecting the integrity of the employee. Therefore, the learned Tribunal concluded that the order



of dismissal was not justified and directed reinstatement of the workman, while awarding 50% back wages and imposing the minor penalty of withholding two annual increments with cumulative effect.

23. In the present case the learned Tribunal, upon remand by this Court, has re-appreciated both oral and documentary evidence. It has assigned cogent reasons for disbelieving the version of the management witnesses i.e. MW1 and MW2, particularly there are material contradictions in their testimonies, improbability of the alleged incident occurring in a high-security institution like NIMS without any contemporaneous complaint, unexplained delay of more than 50 days in issuing the charge sheet, and documentary evidence showing that the workman continued to discharge duties normally, including submission of reports and receipt of increment immediately after the alleged incident. The learned Tribunal rightly held that the major charges were not proved, and the plea of "loss of confidence" was unsupported by cogent evidence. The contention of the company that the learned Tribunal applied criminal standards of proof is not borne out from the record. On the contrary, the learned Tribunal applied the principle of preponderance of probabilities, but found the



management's case inherently unreliable. There is no perversity, no misapplication of law, and no violation of the remand directions issued by this Court. Accordingly, this Court finds no merit in the Writ Petition filed by the company.

24. Insofar as the contention of the learned counsel for the Company that strict rules of evidence are not applicable to domestic enquiries and that findings can be based on preponderance of probabilities, there can be no quarrel with the said proposition. The decisions relied upon, including *Onkar Nath Misra v. State of Haryana*, *M/s. Francis Klein & Co. (P) Ltd. v. Their Workmen*, and *The Workmen of M/s. Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. v. The Management*, lay down settled principles. However, even on the touchstone of preponderance of probabilities, there must exist some cogent and credible material to sustain the charge. In the present case, such foundational evidence is conspicuously absent. Further, the plea of "loss of confidence" advanced by the Management cannot be accepted in the absence of established misconduct. As rightly held by the learned Tribunal, such a plea must be founded on tangible material demonstrating misuse of



position or breach of trust. A mere assertion, without supporting evidence, cannot justify dismissal from service.

25. Insofar as the reliance placed by the learned counsel for the workman on *Allahabad Bank v. Krishan Pal Singh's* case is concerned, the said decision reiterates that reinstatement with full back wages is not automatic and depends upon the facts and circumstances of each case. In the present case, however, the learned Tribunal has categorically held that the major charges were not proved. Once the very foundation of the dismissal is held to be unsustainable, the denial of full back wages and imposition of penalty, in the absence of any proved misconduct, cannot be justified.

26. The admitted position emerging from the record is that the core charges of misconduct have not been proved. The learned Tribunal itself recorded a categorical finding that the major allegations are not established. Procedural lapses in the disciplinary process were also noticed. Once such findings are recorded, the normal consequence in service jurisprudence is reinstatement with full back wages and continuity of service, unless there are compelling reasons to deny such relief.



27. In the present case the learned Tribunal did not assign any convincing reasons for restricting the back wages to 50%, and imposing the penalty of withholding two increments with cumulative effect. On the contrary, the material on record shows that the workman continued duties after the alleged incident, was granted increment shortly thereafter, no contemporaneous complaint or action was taken. These factors clearly indicate that the alleged misconduct was doubtful and not established. In such circumstances, imposition of any penalty, even a minor one, is unsustainable. Denial of back wages amounts to penalizing the workman despite absence of proved misconduct, which is impermissible in law. It is well settled that where termination is found to be unjustified and not attributable to any proven misconduct, full back wages ordinarily follow.

28. In view of the above discussion, this Court is of the considered opinion that the impugned Award of the learned Tribunal does not warrant interference at the instance of the company. However, the impugned Award requires modification to the extent it denies full back wages and imposes penalty.



29. Accordingly, the Writ Petition No. 1844 of 2004 filed by the Company is dismissed, and the Writ Petition No.20970 of 2004 filed by the workman is allowed. Consequently, the impugned Award dated 15.10.2003 passed in I.D.No.47 of 1995 is modified to the extent that the workman shall be entitled to reinstatement with continuity of service and full back wages. The penalty of withholding two annual increments with cumulative effect is hereby set aside. The Company is directed to implement the aforesaid directions within a period of eight (8) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

Sd/-MOHD. ISMAIL
DEPUTY REGISTRAR

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SECTION OFFICER

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(For Her Ladyships Kind Perusal)

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2026:TSHC:13899

HIGH COURT

DATED: 06/05/2026



COMMON ORDER

WP.Nos.1844 AND 20970 OF 2004

DISMISSING THE WP NO.1844 OF 2004

&

ALLOWING THE WP NO.20970 OF 2004

(25)
MT
15/5/26