



2026:DHC:8032



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 15th September, 2026*

CNR No. DLHC010315342007

+ W.P.(C) 1121/2007 & CM APPL. 14883/2020

THE MGMT. OF SAFDARJUNG HOSPITALPetitioner
Through: Mr.V. S. R. Krishna, Advocate.

versus

BAJLEET SINGHRespondent
Through: Mr. Jawahar Raja, Ms. Meghna
De and Mr. Nitai Hinduja,
Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition is filed under Article 226 of the Constitution of India assailing award dated 18.07.2006 (hereinafter '**impugned award**') passed by the Central Government Industrial Tribunal whereby the termination of the respondent was found illegal and he was awarded reinstatement with 20% back wages.

2. Briefly stated, the respondent was appointed as a security guard, on ad hoc basis, by the petitioner, on 09.09.1985. Thereafter, the services of the respondent were regularised by departmental order dated 17.06.1986, w.e.f. 27.05.1986. The services of the respondent were terminated w.e.f. 08.05.1990 *vide* order dated 30.04.1990.

3. Aggrieved by the aforesaid termination order, the respondent raised an industrial dispute and the appropriate government made the



following reference to the learned Tribunal:

“Whether the action of the management of Safdarjung Hospital, New Delhi in terminating the services of Shri Baljit Singh, Security guard/watch-man w.e.f. 8.5.90 is justified? If not, what relief the workman concerned is entitled to?”

4. The learned Tribunal observed that the termination was not effected by the competent authority and that the proper procedure had not been followed. Consequently, the termination of the respondent was found illegal and he was awarded reinstatement with 20% back wages.

5. This Court *vide* order dated 13.02.2007 made the following observations:

“The petitioner seeks to assail the award dated 18.7.2006, passed by the P.O., CGIT, on the ground that the learned Tribunal has failed to appreciate that the provisions of the Industrial Disputes Act are not applicable to the case of the respondents, who was an employee and holder of the civil post. Unfortunately, this plea has not been raised by the petitioner in reply to the claim petition filed by the respondent workman before the Tribunal. In fact, the petitioner has participated in the proceedings, pursuant to which the award has been passed on merits. Therefore, this plea is no longer available to the petitioner in the present writ petition.

The other plea raised by the petitioner is with regard to the findings given by the PO, CGIT, to the effect that the dismissal order of the workman was issued by the Chief Administrative Officer and not by the Deputy Director, Administration, whereas the appointing authority of the respondent workman was the Deputy Director, Administration. The counsel for petitioner has referred to the letter of appointment dated 27.9.1985, issued to the respondent workman (Annexure P-2 to the writ petition), which has been signed by the Chief Administrative Officer and he submits that the said finding is contrary to the records.

Issue notice to the respondent to show cause as to why rule nisi be not issued, by registered AD as also through ordinary process, returnable on 19th July, 2007”

6. Thus, the only remaining contention of the petitioner is that the



learned Tribunal erred in finding that the respondent was not terminated by the competent authority.

7. The learned counsel for the petitioner submits that the respondent was initially appointed and thereafter regularised by the Chief Administrative Officer, Safdarjung Hospital, and the notice dated 09.04.1990 as well as the termination order dated 30.04.1990 were also issued by the same authority. He submits that the finding that the respondent was terminated by an authority subordinate to the appointing authority was, therefore, contrary to the record.

8. *Per Contra*, the learned counsel for the respondent vehemently opposes the present petition. He submits that the learned Tribunal rightly held that the respondent had been terminated by an incompetent authority. He submits that although the appointment letter bore the signature of the Chief Administrative Officer, the said officer had signed it only as a delegate of the Medical Superintendent. The termination order having been issued by the Chief Administrative Officer, the same was rightly held to be invalid.

9. I have heard the arguments and perused the record.

10. A perusal of the appointment offer letter dated 04.09.1985 shows that the same was signed by the Chief Administrative Officer, Safdarjung Hospital, for the Medical Superintendent. The subsequent departmental order dated 27.09.1985 appointing the respondent was also signed by the Chief Administrative Officer. The order regularising the services of the respondent was likewise issued by the Chief Administrative Officer. Significantly, the notice dated 09.04.1990 proposing termination of the respondent's services as well as the



termination order dated 30.04.1990 were also issued by the same authority. Thus, the documentary record demonstrates that the Chief Administrative Officer had acted in relation to the respondent's appointment, regularisation and eventual termination.

11. In these circumstances, the learned Tribunal was not justified in proceeding merely on the basis of the statement of MW-1 that the Deputy Director (Administration) was the appointing and disciplinary authority, particularly when the record before it showed that the Chief Administrative Officer had consistently acted on behalf of the management in respect of the respondent's service. The finding of the learned Tribunal that the respondent was necessarily terminated by an authority subordinate to the competent authority, therefore, cannot be sustained.

12. The learned Tribunal, however, also examined the manner in which the respondent's services came to be terminated. It noted that the management had relied upon the respondent's frequent absence from duty and had issued various memos and warnings to him in that regard. It further noted that the management itself had admitted that the respondent's absence was the reason for terminating his services. On these facts, the learned Tribunal held that the termination was founded upon the allegation of misconduct and that the respondent ought to have been afforded an opportunity to explain his absence before his services were terminated. The learned Tribunal, therefore, held that the termination could not be treated as a mere termination simpliciter and that the absence of such opportunity rendered the termination illegal.

13. Though the petitioner contends that the aforesaid finding of the



learned Tribunal is perverse as the respondent was a temporary Government servant governed by Rule 5(1) of the CCS (Temporary Service) Rules, 1965 and provisions of the Industrial Disputes Act, 1947 were not applicable. However, as has already been noticed by this Court in its order dated 13.02.2007, the petitioner had not raised before the learned Tribunal the plea that the Industrial Disputes Act was inapplicable to the respondent on account of his status as a holder of a civil post and had, in fact, participated in the proceedings on merits. The petitioner cannot, therefore, seek to introduce at this stage a new basis for justifying the termination which was not urged before the learned Tribunal.

14. Even otherwise, it is a well-settled principle of service law that once an order carries a stigma, an opportunity has to be given to the employee before passing such an order. Even if the order appears routine, the Court is required to look behind the order and ascertain whether misconduct was the foundation for passing it. If so, the order would be stigmatic and could not have been passed without affording an opportunity to the employee.

15. In view of the aforesaid, and particularly considering that it is the admitted case of the petitioner that the respondent's services were terminated on account of his alleged misconduct of frequent absenteeism, the learned Tribunal rightly held that the respondent ought to have been issued a show-cause notice and afforded an opportunity to explain the allegations levelled against him, instead of simpliciter terminating his services. The termination, having been effected without following the appropriate procedure, was rightly held by the learned



Tribunal to be improper and illegal.

16. However, be that as it may, this Court cannot lose sight of the fact that mere finding of wrongful termination/discontinuation does not by itself grant a right of reinstatement or back wages to the aggrieved employee.

17. It is well settled that reinstatement with back wages is not an automatic or mechanical consequence of a finding that the termination was illegal. The relief is required to be moulded having regard to the nature of employment, length of service and the facts and circumstances of each case. In **Allahabad Bank v. Krishan Pal Singh, (2021) 19 SCC 227**, the Hon'ble Supreme Court has reiterated that reinstatement with full back wages does not follow automatically merely because the termination is found to be contrary to the procedure prescribed by law.

18. In the present case, the respondent had rendered only about four to five years of service prior to his termination in the year 1990. More than three decades have elapsed thereafter and the respondent has since attained the age of superannuation. It is also pertinent to note that this Court, *vide* order dated 12.05.2009, had allowed the respondent's application under Section 17-B of the Industrial Disputes Act and directed the petitioner to pay him wages last drawn or the minimum wages, whichever was higher, from the date of the impugned award.

19. In the opinion of this Court, considering the totality of the circumstances, the ends of justice would be met if the amount deposited before this Court pursuant to the order dated 06.02.2008, together with the interest accrued thereon, is released to the respondent, in addition to a lump-sum compensation of Rs.2,00,000/-. The aforesaid amount shall



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be paid by the petitioner within a period of eight weeks from the date of this order.

20. The impugned award is modified and the present petition is disposed of in the aforesaid terms.

21. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 15, 2026

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