



2026:DHC:6931



\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 18th August, 2026***# **CNR No. DLHC010679062006**+ **W.P.(C) 12686/2006**

N.D.M.C.

.....Petitioner

Through: Mr. Nirvikar Verma, ASC

versus

YOGENDRA KUMAR BERRY

.....Respondent

Through: Mr. Kamlesh Kumar Mishra,
Ms. Samishti Soloman, Ms.
Renu & Ms. Akanksha Priya,
Advs.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****AMIT MAHAJAN, J.**

1. The present petition is filed challenging the order dated 15.06.2005 and award dated 21.06.2005 passed in ID No. 191/2005, whereby the learned Labour Court quashed the enquiry proceedings against the respondent and subsequently awarded 50% of wages last drawn by him from the date of his termination till superannuation along with all retirement benefits.

2. Briefly stated, the respondent was appointed as a compounder in the year 1964 and he was subsequently tasked with assisting the store-keeper. In February, 1970, another pharmacist M.C. Sharma was appointed as the store-keeper, who allegedly refused to take charge initially due to certain discrepancies in stock. In the year 1975, the respondent was charge sheeted and the following charges were



levelled against him:

“Charge No.1

That the audit of Central Medical Store for the period from 1.4.70 to 31.3.74 was done by the Internal Audit Party and during the course of audit, shortages of medicines costing more than Rs.60,000/- (list of medicines enclosed) were found in the Central Medial Store.

The above action on the part of Sh. Y.K. Berry amounts to gross carelessness, negligence and misappropriation of municipal material. He has thus violated the provisions of Rule No.3 of the CCS(Conduct) Rules, 1955.

Charge No.2

That after his transfer from the Central Medical Store in May/June, 1970, he did not hand over the charge to his successor, Shri Mahesh Chand Sharma.

The above action on the part of Shri Y.K. Berry amounts to dereliction of duty. He has thus violated the provisions of Rule No.3 of the CCS(Conduct) Rules, 1955.”

3. The enquiry initiated against the respondent continued for over six years and the enquiry officer ultimately found that charge 1 was partially proved against the respondent and charge 2 was also proved against him. The respondent was ultimately removed from service by order dated 23.11.1982.

4. By the impugned order dated 15.06.2005, after considering the arguments and the record, the learned Labour Court quashed the findings of the enquiry officer against the respondent on account of the observations in regard to charge 1 being vague and perverse. It was further held that there was no liability of the respondent *qua* charge 2.

5. Subsequently, by impugned order dated 21.06.2005, after noting that the management had opted to not lead any evidence in



relation to merits of the case, the learned Labour Court held that the respondent was entitled to reinstatement, which could not be granted as he had already attained age of superannuation. Thus, 50% of back wages from the date of termination till date of superannuation were awarded with retirement benefits.

6. Today, no arguments have been made in respect of the awarded relief being excessive and it is only stressed on behalf of the petitioner that after finding that the enquiry had been conducted in a fair manner, the learned Labour Court should not have re-appreciated the evidence and interfered with the findings of the enquiry officer. It is further submitted that the respondent had taken over charge from the previous store-keeper S.P. Goela in January, 1970 and he did not hand over charge to M.C. Sharma, which is sought to be proved by the evidence of the witness PW-7 (Senior Store-keeper). It is also submitted that the said witness was not cross-examined by the respondent and he categorically deposed that there was no record of the respondent handing over charge in the concerned ledger for the year 1969-1970, and the respondent cannot be absolved of liability after joining of Mr. M.C. Sharma.

7. I have heard the counsel and perused the record.

8. It is well-settled that ordinarily, a Labour Court ought not to interfere with findings of a domestic enquiry if the enquiry is held in a fair manner in accordance with the principles of justice. That is not to say that any findings in a fair enquiry are galvanised against interference. Though a Labour Court does not act as a Court of appeal,



2026:DHC:6931



interference is permissible if the conclusion is based on no evidence or if the findings are manifestly perverse.

9. The present case is one where the learned Labour Court has categorically found that the enquiry was conducted in a fair and proper manner, and still interfered with the findings of the enquiry officer. The view of the learned Labour Court is in part premised on the findings of the enquiry officer being vague and perverse. Perusal of the enquiry report makes it clear that the enquiry officer merely noted the respective versions as well as the contentions of the parties and held that charge 1 against the respondent is partially proved after making certain general observations. Even though the enquiry report records the statements given by various witnesses, but the same does not indicate how the enquiry officer had reached the conclusion that charge 1 against the respondent had been partially proved.

10. Further, the sparse reasoning in relation to charge 2 is also insufficient. It is noted in the enquiry report that charge 2 was essentially proved as the respondent had not given any evidence to show his desire to hand over charge and he had failed to substantiate reasons for his inability to hand over charge. The enquiry officer erroneously levelled the onus on the respondent to bely the charge without focusing on as to how the petitioner proved the same. In absence of any cogent reasoning as to how the enquiry officer reached such a conclusion, the learned Labour Court cannot be faulted for setting aside the adverse findings against the respondent which have not been supported by any reasoning.



2026:DHC:6931



11. Even otherwise, it is imperative to note that even as per the case of the petitioner (as recorded by the enquiry officer), the charge of the store was taken over by Mr. M.C. Sharma on 11.06.1970, and the respondent only remained in store till June, 1970. Afterwards, the respondent admittedly worked intermittently for a very short period when Mr. M.C. Sharma was on leave. The learned Labour Court rightly appreciated that since Mr. M.C. Sharma joined on 10.02.1970, there is presumption that he took over charge of the store at that time, and no blame could be laid for any shortage of medicines in the subsequent period from April, 1970 to March, 1974.

12. Though emphasis is laid on evidence of PW7 to assert that the charge of store was not handed over by the respondent to his successor, however, no disciplinary action was initiated against the respondent at the relevant time in the year 1970 and charge 2 was only levelled against him after purported discrepancies were noted in stock of medicines. Pertinently, the enquiry proceedings also continued for around six years. No explanation is provided even at this stage as to why the charges were levelled at such a belated juncture and the same appears to be an afterthought.

13. In such circumstances, considering that charge 1 was in respect of shortage of medicines from April, 1970 to March, 1974 (that is, after Mr. M.C. Sharma had joined), the learned Labour Court rightly noted that the respondent cannot be held responsible for the short period of his posting, especially due to lack of specificity in the enquiry report regarding period for which the respondent was held



2026:DHC:6931



partially responsible for shortage of medicines. The learned Labour Court also aptly noted that no clear-cut evidence was put forth to level responsibility on the respondent in this respect either. The views taken by the learned Labour Court are plausible and reasonable and the belated allegations coupled with non-application of mind by the enquiry officer deter this Court from interfering with the same after more than twenty years.

14. In view of the aforesaid discussion, I find no error in the findings of the Tribunal and do not consider it apposite to exercise extraordinary jurisdiction under Article 226 of the Constitution of India to interfere with the impugned order dated 15.06.2005 or the impugned award dated 21.06.2005.

15. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

AUGUST 18, 2026

"SS"