



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

बुधवार, 09 सितम्बर, 2026 / 18 भाद्रपद, 1948

हिमाचल प्रदेश सरकार

**Food Civil Supplies & Consumer affairs Department
Himachal Pradesh District Bilaspur**

NOTIFICATION

Dated the 05th September, 2026

Endst. No.I/970252/2026.—In supersession of all previous Notifications and in exercise of the powers conferred upon me under Clause 3(I) (e) of the H.P. Hoarding and Profiteering

Prevention Order, 1977, I, Rahul Kumar IAS, District Magistrate, Bilaspur, District Bilaspur do hereby fix the maximum retail prices inclusive of all taxes and other incidental charges in respect of the following essential commodities that may be charged by the dealers or retailers in District Bilaspur with immediate effect:—

Sl. No. of the article as per Schedule-I of the said order	Name of the Commodities	Maximum Retail Price
12.	Meat/Chicken	
	(1) Meat goat/Bheda	550.00 per kg.
	(2) Meat Pig	300.00 per kg.
	(3) Chicken Dressed	250.00 per kg.
	(4) Broiler Dressed	250.00 per kg.
	(5) Fish Un-Fried	230.00 per kg.
	(6) Fish Fried	450.00 per kg.
	(7) Chicken Alive	200.00 per kg.
17.	Cooked Food served in any Dhaba/ Establishment	
	(1) Chapati Tandoori	10.00 per chapatti
	(2) Chapati Tawa	7.00 per chapatti
	(3) Prantha Stuffed (With Onion/Potato stuffing Full Size)	30.00 per prantha
	(4) Full Diet (Rice Chapati with Dal & Vegetables), Bilaspuri Dham (Rice with 5 recipes).	100.00 Full Diet
	(5) Rice full plate	50.00 per plate
	(6) Dal Fried	60.00 per plate
	(7) Meat Curry (200 grams net meat pieces <i>i.e.</i> at least minimum 5 pieces and 100 grams of gravy).	130.00 per plate
	(8) Chicken Curry (200 grams net chicken pieces <i>i.e.</i> at least minimum 5 pieces and 100 grams of gravy).	110.00 per plate
	(9) Vegetable Special	80.00 per plate
	(10) Matar/Palak Paneer (must have at least 100 Paneer).	100.00 per plate
	(11) Two Bhatura with Sabji/Channa, Dahi	60.00 per plate
	(12) Raita	50.00 per dish plate
18.	Milk/Curd/Paneer	
	(1) Milk all brands (InPackets)	As per print rate
	(2) Paneer Loose	350.00 per kg.
	(3) Curd Loose	80.00 per kg.

20.	Cold Drinks	
	(1) Cold Drinks of all Brands	As per print rate

Note :—

1. One plate of meat/chicken curry should have 200 grams net meat pieces *i.e.* at least minimum 5 pieces and 100 grams of gravy.
2. Matar Paneer, Palak Paneer etc. must have at least 100 grams cheese
3. In the packed commodities *i.e.* bread /milk etc., the price, date of packing should be as W & M Commodities package Act, 1976.
4. Every dealer/shopkeeper shall conspicuously display the price list of these commodities at the entrance of the business premises, which should be duly signed by the owner/manager.
5. On the demand of the customer, every shopkeeper shall issue cash memo/bill to the customer.

This notification shall be valid for a period of one month from the date of publication in the Official Gazette.

Sd/-
(RAHUL KUMAR, I.A.S.),
District Magistrate,
Bilaspur, District Bilaspur (H.P.).

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 25th August, 2026

No. HHC/Estt.3(763)/2010.—02 days earned leave for 28-06-2026 & 29-06-2026 (extended period), is hereby sanctioned in favour of Shri Jai Prakash Verma, Secretary of this Registry.

Certified that Shri Jai Prakash Verma has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Jai Prakash Verma would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 25th August, 2026*

No. HHC/Estt.3(727)/2010-I.—12 days commuted leave on and *w.e.f.* 30-05-2026 to 10-06-2026 is hereby sanctioned, *ex-post-facto*, in favour of Smt. Veena Sharma, Court Secretary of this Registry.

Certified that Smt. Veena Sharma has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Veena Sharma would have continued to officiate the same post of Court Secretary but for her proceeding on leave.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 26th August, 2026*

No. HHC/Estt.3(699)/2009.—03 days commuted leave on and *w.e.f.* 29-06-2026 to 01-07-2026, is hereby sanctioned, *ex-post-facto*, in favour of Shri Suresh Purohit, Court Master of this Registry.

Certified that Shri Suresh Purohit has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Suresh Purohit would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001**NOTIFICATION***Shimla, the 26th August, 2026*

No. HHC/Estt.3(463)/96-I.—08 days earned leave *w.e.f.* 13-06-2026 to 20-06-2026 (extended period), with permission to suffix Sunday fell on 21-06-2026, is hereby sanctioned, *ex-post-facto*, in favour of Smt. Monika Sood, Court Master of this Registry.

Certified that Smt. Monika Sood has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Monika Sood would have continued to officiate the same post of Court Master but for her proceeding on leave.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 26th August, 2026

No. HHC/Estt.3(605)/2007.—11 days earned leave on and *w.e.f.* 08-07-2026 to 18-07-2026, with permission to suffix Sunday fell on 19-07-2026, is hereby sanctioned, *ex-post-facto*, in favour of Smt. Monika Sood, Secretary of this Registry.

Certified that Smt. Monika Sood has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Monika Sood would have continued to officiate the same post of Secretary but for her proceeding on leave.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 27th August, 2026

No. HHC/GAZ/14-53/74-VII.—In the interest of administration, following transfers and postings of the members of H.P. Judicial Service in the cadre of District Judges/Additional District Judges, in the Registry of the Hon'ble High Court are hereby ordered with immediate effect :—

1. Shri Vikas Bhardwaj, Registrar (Vigilance) is transferred and posted as Registrar General, High Court of Himachal Pradesh.

2. Shri Nitin Kumar, Registrar (Rules, IT & Recruitment) shall look after the work of Registrar (Vigilance & Protocol) in addition to his own duties till further orders.

By order of Hon'ble High Court Of Himachal Pradesh,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 29th August, 2026

No. HHC/Estt.3(466)/96.—11 days earned leave on and *w.e.f.* 24-08-2026 to 03-09-2026, with permission to prefix Sunday fell on 23-08-2026 and suffix gazetted holiday falling on 04-09-2026, is hereby sanctioned, in favour of Shri Maan Dass Mokhta, Court master of this Registry.

Certified that Shri Maan Dass Mokhta is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Maan Dass Mokhta, would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 31st August, 2026

No. HHC/15-69/Jus./Acctts./2026.—It is hereby notified that pursuant to Notification No. K-13020/01/2025- US-I dated 27th August, 2026, issued by the Government of India, Ministry of Law and Justice, Department of Justice (Appointments Division), New Delhi, Hon'ble Mr. Justice Chirag Bhanu Singh, has assumed the charge of the office of Judge of the Himachal Pradesh High Court on **30th August, 2026 at 5.00 P.M.**

By order,
Sd/-
(VIKAS BHARDWAJ),
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 31st August, 2026

No. HHC/15-70/Jus./Acctts./2026.—It is hereby notified that pursuant to Notification No. K-13020/01/2025- US-I dated 27th August, 2026, issued by the Government of India, Ministry of Law and Justice, Department of Justice (Appointments Division), New Delhi, Hon'ble Mr. Justice Bhupesh Sharma, has assumed the charge of the office of Additional Judge of the Himachal Pradesh High Court on **30th August, 2026 at 5.00 P.M.**

By order,

Sd/-
(VIKAS BHARDWAJ),
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 31st August, 2026

No. HHC/15-71/Jus./Acctts./2026.—It is hereby notified that pursuant to Notification No. K-13020/01/2025- US-I dated 27th August, 2026, issued by the Government of India, Ministry of Law and Justice, Department of Justice (Appointments Division), New Delhi, Hon'ble Mr. Justice Yogesh Jaswal, has assumed the charge of the office of Additional Judge of the Himachal Pradesh High Court on **30th August, 2026 at 5.00 P.M.**

By order,

Sd/-
(VIKAS BHARDWAJ),
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd September, 2026

No. HHC/Estt.3(875)/2015.—07 days earned leave on and *w.e.f.* 01-08-2026 to 07-08-2026, with permission to suffix second Saturday and Sunday fell on 08-08-2026 & 09-08-2026 (extended period), is hereby sanctioned, *ex-post-facto*, in favour of Smt. Hem Lata Sharma, Assistant Registrar of this Registry.

Certified that Smt. Hem Lata Sharma has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Hem Lata Sharma would have continued to officiate the same post of Assistant Registrar but for her proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd September, 2026

No. HHC/Estt.3(759)/2010.—09 days earned leave on and *w.e.f.* 26-08-2026 to 03-09-2026, with permission to suffix gazette holiday falling on 04-09-2026, is hereby sanctioned, *ex-post-facto*, in favour of Shri Karan Singh Guleria, Secretary of this Registry.

Certified that Shri Karan Singh Guleria has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Karan Singh Guleria would have continued to officiate the same post of Secretary but for his proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd September, 2026

No. HHC/Estt.3(700)/2009.—33 days earned leave *i.e.* 07 days earned leave on and *w.e.f.* 19-06-2026 to 25-06-2026, with permission to suffix gazette holiday fell on 26-06-2026 and 26 days earned leave on and *w.e.f.* 20-07-2026 to 14-08-2026, with permission to suffix gazetted holiday and Sunday fell on 15-08-2026 & 16-08-2026, is hereby sanctioned, *ex-post-facto*, in favour of Shri Yugal Kishore, Court Master of this Registry.

Certified that Shri Yugal Kishore has joined the same post and at the same station from where he proceeded on leave after the expiry of the above leave period.

Certified that Shri Yugal Kishore, would have continued to officiate the same post of Court Master but for his proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 2nd September, 2026

No. HHC/Admn.3(362)/92-I.—The following earned leaves are hereby sanctioned, *ex-post-facto*, in favour of Smt. Rachna Sood, Assistant Registrar of this Registry :—

1. 02 days earned leave for 30-07-2026 & 31-07-2026.
2. 03 days earned leave on and *w.e.f.* 05-08-2026 to 07-08-2026, with permission to suffix second Saturday and Sunday fell on 08-08-2026 & 09-08-2026.

Certified that Smt. Rachna Sood has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Rachna Sood would have continued to officiate the post of Assistant Registrar but for her proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd September, 2026

No. HHC/Estt.3(517)/2001-I.—09 days commuted leave on and *w.e.f.* 30-07-2026 to 07-08-2026, with permission to suffix second Saturday and Sunday fell on 08-08-2026 & 09-08-2026, is hereby sanctioned, *ex-post-facto*, in favour of Smt. Mamta Rao, Secretary of this Registry.

Certified that Smt. Mamta Rao has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Mamta Rao would have continued to officiate the same post of Secretary but for her proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd September, 2026

No. HHC/Estt.3(578)/2006-I.—10 days commuted leave *w.e.f.* 03-08-2026 to 12-08-2026, is hereby sanctioned, *ex-post-facto*, in favour Smt. Seema Sharma, Deputy Registrar of this Registry.

Certified that Smt. Seema Sharma has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Seema Sharma would have continued to officiate the post of Deputy Registrar but for her proceeding on leave.

By order,

Sd/-
Registrar General.

LABOUR EMPLOYMENT & OVERSEAS PLACEMENT DEPARTMENT

NOTIFICATION

Shimla-171 002, the 17th August, 2026

No: LEP-E/1/2024.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor of Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the **Presiding Judge, Labour Court-cum-Industrial Tribunal, Shimla, H.P.** on “e-Gazette” Himachal Pradesh :—

Sl. No.	Case No.	Petitioner	Respondent	Section	Date of Award/Orders
1.	Ref.74/2023	Balbir Singh	M.D. M/s Black Burn & Co.	10	06-07-2026
2.	Ref.59/2021	Ankit Thakur	FM M/s Transasia Bio Medical	10	20-07-2026

3.	Ref.183/2020	Raj Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
4.	Ref.258/2020	Deepak Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
5.	Ref.259/2020	Birender Singh	FM M/s Transasia Bio Medical	10	20-07-2026
6.	Ref.262/2020	Sunil Thakur	FM M/s Transasia Bio Medical	10	20-07-2026
7.	Ref.265/2020	Ashwani Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
8.	Ref.273/2020	Deepak Kaushal	FM M/s Transasia Bio Medical	10	20-07-2026
9.	Ref.274/2020	Karnail Singh	FM M/s Transasia Bio Medical	10	20-07-2026
10.	Ref.275/2020	Sanjay Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
11.	Ref.276/2020	Sudesh Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
12.	Ref.281/2020	Sunil Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
13.	Ref.282/2020	Anil Kumar	FM M/s Transasia Bio Medical	10	20-07-2026
14.	Ref.30/2023	Chanderkesh Pradhan	M/s Laser Shaving Products.	10	24-07-2026
15.	Ref.71/2024	Gurucharan Singh	FM M/s Kala Amn (P) Ltd.	10	24-07-2026
16.	Ref.182/2021	Avdhesh Partap Singh	FM M/s Himachal Baspa Power Co. Ltd.	10	30-07-2026

By order,

PRIYANKA BASU INGTY,
Secretary (Lab. Emp. & O.P.).**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. : 74 of 2023
Instituted on : 09-05-2023
Decided on : 06-07-2026

Balbir Singh, s/o Sh. Pratap Singh, r/o Village Maswad, P.O. Bardi, Tehsil Ghumarwin and District Bilaspur, H.P. . . *Petitioner.*

Versus

The Managing Director, M/S Black Burn & Co. Pvt. Ltd., C/O Village Thana, Near EPIP II, P.O. Baddi, Tehsil Nalagarh, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Sh. Varun Dev Chauhan, Advocate.
 For the respondent : Ex-parte.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 01-04-2023, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether the termination of services of Sh. Balbir Singh, S/O Sh. Pratap Singh, R/O Village Maswad, P.O. Bardi, Tehsil Ghumarwin and District Bilaspur, H.P. by the Managing Director, M/S Black Burn & Co. Pvt. Ltd., C/O Village Thana, Near EPIP II, P.O. Baddi, Tehsil Nalagarh, District Solan, H.P. *w.e.f.* 09-06-2022 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what relief of reinstatement in services, past service benefits, leave encashment, overtime benefits and compensation etc., the above aggrieved workman is entitled to from the above management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was appointed as an office boy in the respondent company *w.e.f.* 01-06-2019 and was getting a salary Rs. 12,248/-. The petitioner was terminated from the services without assigning any cogent and lawful reason. It is submitted that as earlier petitioner was appointed as an office boy but after some time without assigning any sufficient cause they started harassing the petitioner by assigning him heavy work *i.e.* loading and unloading things in different units/ department, due to which he suffered from backache which made the petitioner unable to do that kind of heavy work. It is submitted that when the petitioner joined the company, the respondent told him that he is required to do only office work in the administration department like preparing and serving tea and other eatable items to the guest as well as to the officers of the company. But after two-three months of his services, he was forced to do all kinds of heavy works. It is submitted that the petitioner worked in the company with all his integrity and dedication and performed the work assigned to him without any complaint. It is pertinent that when it became impossible for the petitioner to perform the work of laborer, he made complaint to the higher authorities of the company. It is submitted that thereafter in the month of June 2022, he was told that his services were no more required by the respondent company. The petitioner was terminated from the services. Petitioner has written a letter dated 11-07-2022 to the managing director of the company for all such hardships and grievances. In response to the above mentioned letter dated 11-07-2022, the petitioner was called by the company to do work in the office, but when he reached the company gate, the security guards of the office denied the entry to the petitioner to into the premises. It is averred that during the period when petitioner was working with the company, his mother got ill whose treatment has started from the hospital *i.e.*, Employees State Insurance Corporation Model Hospital Baddi. However, due to illegal termination of the petitioner, his mother was forced to leave the hospital. The financial condition of the petitioner was not good due to which he was unable to treat his mother in good hospital. As a result of above, the mother of the petitioner expired at Community Health Center Baddi on 16-01-2023. Petitioner requested the respondent company several times regarding his grievance but respondent company has failed to entertain his request. Petitioner has written a letter on 06-09-2022 to the managing director where he requested the respondent either to set aside the illegal termination and to reinstated in service or discharge his three months salary along with bonus. He is not gainfully employed anywhere. The services of the petitioner were terminated without issuing any notice or conducting any enquiry. The act of the respondent is arbitrary, illegal and without adhering to the labour laws and principle of natural justice. The petitioner thereafter prayed that the termination be declared illegal and unjustified and he be ordered to be reinstated with full back wages, seniority and continuity.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent. It is submitted that the petitioner was not appointed as office boy and he was appointed in the factory as a worker and he was required to work at any place in the factory. After working on the shop floor for a considerable period, he was given the responsibility of making & serving tea to the office and production staff. It is denied that the petitioner was terminated from his services. It is submitted that the petitioner had left the company at his own will without giving any notice. Before leaving the company, he took advance from the company *i.e.* Rs. 3808/-. The company had written the letter to the petitioner through a registered post to his permanent address as to why he is not coming on duty without any intimation, but the petitioner refused to receive the letter. It is further submitted that one day a telephonic intimation was received from the labour office that there is complaint against the company. The labour officer instructed the petitioner to join the company if he wants to work in the company at same place where he left and petitioner came in the company but he never joined the work in Production area. It is further submitted that the reasons behind shifting the petitioner back to the production department arose during Covid time when it was advised that minimal contact should be maintained to limit the spread of infection. The petitioner had worked in the production area for almost one year till the time when he left the company in the month of June, 2022. It is denied that the petitioner was forced to work as a laborer. It is submitted that he was never appointed as an office boy. He was recruited as a worker who helps in manufacturing process work. It is further denied that the petitioner had refused to join the production department and returned as per his own will and decision. It is submitted that the petitioner was running barber shop after his job and he was earning more than salary from the previous job. It is further submitted that his younger brother is still working with the company and he is covered under ESI and ESI benefits still availed for the petitioner mother. It is further submitted that respondent company never terminated the services of the petitioner and he left the job at his own will and without any intimation which was totally his responsibility. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. Thereafter, petitioner filed the rejoinder to the reply, whereby petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 28-10-2024.

1. Whether the termination of services of the petitioner *w.e.f.* 09-06-2022, without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged?

. . . *OPP.*

2. If issue no. 1 is proved in the affirmative, to what relief of service benefits and compensation to the aggrieved workman is entitled to above management?

. . . *OPP.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. I have heard the Ld. Counsel for the petitioner and have also gone through the record with care.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes

Issue No. 2 : Entitled for reinstatement with seniority and continuity along with full back-wages.

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUES NO.1 & 2

10. Both these issues are intermingled and inter-connected and require common appreciation of the evidence, as such both these issues are taken up together for the purpose of determination.

11. The onus to prove issue no. 1 is on the petitioner. Petitioner namely Shri Balbir Singh has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the contents of the claim petition. He has also tendered in evidence pay slip for the month of June, 2019 Ex. PW-1/B, letter written by him to management committee Ex. PW-1/C, letter dated 06-09-2022 to Labour Inspector Baddi Ex. PW-1/D, IRDP/ BPL Certificate Ex. PW-1/E, Aadhar Card Ex. PW-1/F, mother death certificate Ex. PW-1/G, I.D. Card of the company Ex. PW-1/H and E-Pehchan Card of ESIC issued by Black Burn Company Ex. PW-1/J. He has deposed that after the termination of services, he was not gainfully employed anywhere till date.

12. Petitioner has also examined Shri Sunil Dutt, who has appeared in the witness box as PW-2. He has stated that he was posted as Store Assistant in the respondent company from year 2015 to 2017 and remained as a Store In-charge till 2024 and the petitioner is known to him. He has deposed that the petitioner was appointed and worked as office boy since 2019 and they worked in the same office. He used to serve tea to the guest and officials of the company and was also working in the office for some time. After few months of his engagement, he was forced to do certain works of loading, unloading of the vehicles and grinding of the liner products which work was heavy in nature and was not in the work profile of the petitioner. He further deposed that due to this heavy work he suffered from backache and when he raised this matter before the higher officials of the company, he was terminated from the services. Even after termination, the petitioner made himself available for work but he was not allowed to enter in the company premises to join the duties.

13. This is the entire oral and documentary evidence led by the petitioner

14. It is pertinent to mention that the respondent was duly served and appeared before this Court. He has even filed the reply to the claim petition, wherein he has denied the contentions of the petitioner by contending that the petitioner was never appointed as an office boy but was appointed in the factory as a worker and was required to work at any place in the factory. As per reply filed by the respondent, the petitioner has left the company out of his own will without giving any notice and has even refused to receive the notice sent to him through registered post by the respondent. According to respondent, the petitioner was appointed in the production department. Since, the respondent has not appeared after filing the reply, as such the contentions made by the respondent has remained mere contentions unsubstantiated on record.

15. As per established principle of law, the petitioner in order to succeed will have to substantiate his claim. Non-production of evidence in opposition will not support the claim of the petitioner even by legal fiction.

16. The burden therefore is upon the petitioner that his services were illegally terminated. Now, according to petitioner he was appointed as an office boy by the respondent in the month of June, 2019. In this regard, the petitioner has placed on record the copy of pay slip Ex. PW-1/B for the month of June, 2019, wherein the name, designation and department etc., of the petitioner is mentioned. It is revealed from the said document Ex. PW-1/B that the designation of the petitioner was "Office Boy" in the ADMIN Department of the respondent company. The bare perusal of the said document goes to show that the petitioner was neither appointed as a worker/ laborer nor was appointed in the production department in the respondent company. Further copy of I Card Ex. PW-1/H also speaks the same fact that petitioner was appointed in the office and not in the production department as alleged by the respondent. The respondent has not appeared in the witness box to rebut the said contention as well as the said documents Ex. PW-1/B & Ex. PW-1/H. In the absence of any objection to the said documents, I find no reason to reject the said document and the said contention of the petitioner. It is further case of the petitioner that after about two-three months, without assigning sufficient cause the respondent has started harassing him and assigned him with heavy works *i.e.* loading and unloading of goods in different departments due to which he suffered backache and other related problems. It is his case that he has made the complaint to the higher authorities in this regard.

17. The petitioner has placed on record letter Ex. PW-1/C wherefrom it is revealed that he has apprised the managing director of the respondent company that upon the intervention of the Labour Inspector he was called by the respondent company to work however, when he went there, he was not allowed to enter the premises on 09-06-2022. Thereafter, *vide* letter dated 06-09-2022 Ex. PW-1/D the petitioner apprised the Labour Inspector regarding the harassment by the respondents and requested him to intervene in the matter. It is on the basis of this demand notice that the reference was received by this Court.

18. The petitioner has duly stated his case upon solemn affirmation and has established the fact that he was appointed as an office boy in the admin department and the nature of his job was to serve in the office. Impliedly it was not his job to work in the production department as a laborer. Although, proceeded against *ex-parte*, however the reply filed by the respondent makes it clear that the petitioner was required to work in the production department by the respondent. As per reply the petitioner was never appointed as office boy. Firstly, the said contention of the respondent is falsified by the documents Ex. PW-1/B & Ex. PW-1/H which appears to have been issued by the respondent company and secondly nothing has been led on record to show as to how the nature to the job of petitioner was changed to labour/ worker as alleged in the reply. The perusal of reply also goes to show that it was the petitioner who has left the job on his own, however the said contention of the respondent has remained unsubstantiated even on oath by the respondent. No evidence has come on record in order to show that it was the petitioner who has left the job on his own. In the absence of any evidence to the contrary, there is no reason for this Court but to believe the version of the petitioner.

19. As already said, the respondent has not bothered to appear in the witness box nor has led any evidence in this case. The claim petition has remained uncontested and the on oath version of the petitioner has remained uncontroverted. As such, this Court is left with no other option than to believe the on oath version of the petitioner.

20. This apart, it has come in the evidence of the petitioner that since the illegal termination of his services by the respondent, he has not been gainfully employed anywhere. Therefore, the petitioner is also entitled to back-wages along with reinstatement, seniority and continuity.

21. Considering, the uncontroverted version of the petitioner, this Court is of the view that the petitioner has successfully proved his claim. Being so, the petition in hand succeeds and the same is hereby allowed *ex-parte*. Both the issues are accordingly answered in affirmative.

RELIEF

22. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 6th day of July, 2026.

Sd/-
(PREETI THAKUR),
Presiding Judge Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 59 of 2021
Instituted on : 24-02-2021
Decided on : 20-07-2026**

Ankit Thakur s/o Shri Amar Singh r/o Village Mundi P.O. Sahla, Tehsil Sinhuta, District
Chamba, H.P. . . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 01-02-2021, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Anil Thakur s/o Shri Amar Singh r/o Village Mundi P.O. Sahla, Tehsil Sinhuta, District Chamba, H.P. *vide* letter dated 29.05.2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 15-05-2012 with the respondent and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there is complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, respondent wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principle of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but ordered the petitioner that due to Covid-19 the factory will remain close for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. For the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 15-05-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there was no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they pressurize the management

regarding reinstatement of the services, their joining of services will be taken in North-East or some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demand for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Appointment Letter dated 15-05-2012 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 32,394/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under :

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Anil Thakur, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of appointment Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty

immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 15-05-2012 and since then was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondent Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D, dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for

the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/ approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 28-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has

admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In ***Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana*** has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been compiled with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of

termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private

establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his

termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla, (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 183 of 2020
Instituted on : 31-08-2020
Decided on : 20-07-2026**

Raj Kumar s/o Shri jaisi Ram, r/o Village Nara, Tehsil Barsar, District Hamirpur, H.P.
... *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil Baddi, District Solan, H.P.
... *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate
For the respondent : Shri Ajay Kumar Sharma, Advocate

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 26-08-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Raj Kumar s/o Shri jaisi Ram r/o Village Nara Tehsil Barsar, District Hamirpur, H.P. during May, 2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Logistic Assistant/Technician by the respondent and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place *i.e.* respondent no. 1 to resume his duty but respondent no. 1 ordered the petitioner that due to Covid-19 the factory will remain close for next few days and you will be communicated through telephone call/messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. The illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 14-02-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they pressurize the

management regarding reinstatement of the services, their joining of services will be taken in North East or some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demand for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Appointment Letter dated 11-07-2016 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 8,270/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Raj Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty

immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Logistic Assistant/Technician with the respondent company on 11-07-2016 and since then was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" vide notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01.05.2020 the nationwide lockdown was further extended by two weeks. It was from 30.05.2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/ absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for

the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/ approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has

admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately vide said notice cannot be accepted particularly when the petitioner has stated that he was intimated vide said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In ***Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana*** has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been compiled with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of

termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private

establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In ***Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324***, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his

termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge Industrial Tribunal-cum-
Labour Court, Shimla, (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. : 258 of 2020
Instituted on : 07-10-2020
Decided on : 20-07-2026

Deepak Kumar s/o Shri Jagat Ram Sharma, r/o Village Randhara, P.O. Lunas, Tehsil Nalagarh, District Solan, H.P. . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil Baddi, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 22-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Deepak Kumar s/o Shri Jagat Ram Sharma, r/o Village Randhara, PO Lunas, Tehsil Nalagarh, District Solan, H.P. *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 15-05-2017 with the respondents and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown has been enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there is complete lockdown in the entire country as well as State of H.P. and there is neither any public transport nor any private vehicle was plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it is not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principle of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place *i.e.* respondent to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and you will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. The illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondents by terminating the services of the petitioner without framing/issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company 15-05-2017 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 4 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Center Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondent threatened the other employees that if they pressurize the

management regarding reinstatement of the services, their joining of services will be taken in North East of some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date to till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Appointment Letter dated 15-05-2017 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner was never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 470/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, vide order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Deepak Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the

respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 15-05-2017 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/ private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/ absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for

the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/ approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has

admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own. '

24. In ***Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana*** has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

"The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of

termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20.03.2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/ salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private

establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In ***Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324***, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within

a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-

(PREETI THAKUR)

*Presiding Judge Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. : 259 of 2020
Instituted on : 07-10-2020
Decided on : 20-07-2026

Birender Singh, s/o Sh. Munshi Ram, Village & P.O. Barota, Sub-Tehsil Bharari, District
Bilaspur, H.P. . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 22-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Sh. Birender Singh, s/o Sh. Munshi Ram, Village & P.O. Barota, Sub Tehsil Bharari, District Bilsapur, H.P., *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician in Q.C. Department on 01-06-2009 with the respondent and appointment letter was issued to the petitioner. The petitioner was discharging his duties with respondent company. The EPF was also start deducting from August, 2009 *i.e.* one month after the date of joining. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. The respondent commits several irregularities regarding the date of joining of the petitioner as the services of the petitioner were regularized from 01-07-2009 and ESI Card was also given to the petitioner from the date of regular joining *i.e.* 01-07-2009. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, respondent wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster roll as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent did not provide any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain closed for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. Due to the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner had worked with the respondent company till 23-03-2020 and when he came back to join his duty the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown

whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part or industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglected his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/ medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 23-03-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 29-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 7(b) of Appointment Letter dated 04-11-2010 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Birender Singh, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter 04-05-2009 Mark-PX-1, I.D. proof Mark-PX-2, letter 01-07-2009 Mark-PX-3, EPF details Mark-PX-4, letter 30-12-2011 Mark-PX-5, letter 20.05.2019 Mark-PX-6, letter 29-05-2020 Mark-PX-7 and letter 05-06-2020 Mark-PX-8.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has

admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent. He has denied that he has deposing falsely.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 01-06-2009 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became

impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondent Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence

to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Admittedly, the respondent had issued the notice dated 29-05-2020 Mark-PX-7 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 Mark-PX-7 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to

join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. Admittedly, the petitioner has received notice dated 29-05-2020 Mark-PX-7 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. From the perused of the notice dated 29-05-2020 Mark-PX-7, it is clear that the petitioner was intimated that his name has been removed from muster rolls and there is no mention in the aforesaid notice that the petitioner was given opportunity to resume his duties. From the aforesaid notice it is also clear that the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In ***Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana*** has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240

days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. But, according to the petitioner, said notice was no any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. The perusal of said notice Mark-PX-7 also indicates the same. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20.03.2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/ Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/ private

establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In ***Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324***, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his

termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 262 of 2020
Instituted on : 07-10-2020
Decided on : 20-07-2026**

Sunil Thakur s/o Shri Randhir Singh r/o Village Banad P.O. Shikore, Tehsil Pachhad,
District Sirmaur, H.P. . . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 22-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :—

“Whether termination of the services of Shri Sunil Thakur S/o Shri Randhir Singh R/o Village Banad PO Shikore, Tehsil Pachhad, District Sirmaur, H.P. *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 11-07-2016 with the respondent and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent did not provide any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19, the factory will remain close for next few days and he will be communicated through telephone call/messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. The illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent had appeared before the Labour Officer and the dispute could not be settled. The action of the respondents by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 14-02-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Center Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they pressurize the management regarding

reinstatement of the services, their joining of services will be taken in North East of some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part or industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date to till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Appointment Letter dated 02-12-2010 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner was never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 56,815/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, vide order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP.*

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Sunil Thakur, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during

Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 02-12-2010 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/ private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he

was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected the have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. In

the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In ***Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana*** has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that in spite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time

Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, vide DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in

service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 265 of 2020
Instituted on : 08-10-2020
Decided on : 20-07-2026**

Ashwani Kumar S/o Shri Baldev Singh R/o Village Sadharyana Po Trakvadi, Tehsil
Bhoranj, District Hamirpur, H.P. ... *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. ... *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 26.09.2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Ashwani Kumar s/o Shri Baldev Singh r/o Village Sadharyana P.O. Trakvadi, Tehsil Bhoranj, District Hamirpur, H.P vide letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 01-03-2012 with the respondents and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principle of natural justice. The public transport started with certain restrictions in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and he will be communicated through telephone call/messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. For the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner working with the respondent company *w.e.f.* 14-02-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 8 years and there was no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they

pressurize the management regarding reinstatement of the services, their joining of services will be taken in North-East or some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demand for diagnostic equipment’s/ medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 24-03-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 6 of Appointment Letter No. TBM/HR/APPT/901/2012 dated 01-03-2012 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 44,935/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Ashwani Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during

Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 01-03-2012 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he

was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/ absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to play the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 28-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. In

the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that in spite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time

Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, vide DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/ Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his

termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla, (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 273 of 2020
Instituted on : 09-10-2020
Decided on : 20-07-2026**

Deepak Kaushal S/o Shri Rajinder Kumar R/o Village Odda, PO Diggall, Tehsil Nalagarh, District Solan, H.P. . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government vide notification dated 29-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the "Act"), for legal adjudication :

"Whether termination of the services of Shri Deepak Kaushal s/o Shri Rajinder Kumar r/o Village Odda, P.O. Diggall, Tehsil Nalagarh, District Solan vide letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?"

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 11-07-2016 with the respondent and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. For the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner working with the respondent company *w.e.f.* 11-07-2016 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 4 years and there was no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Center Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they

pressurize the management regarding reinstatement of the services, their joining of services will be taken in North-East or some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demand for diagnostic equipment’s/ medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 11-05-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 6 of Appointment Letter No. TBM/HR/APPT/2412/2016, dated 11-07-2016 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29.05.2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 2,341/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.
2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.
3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

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|--------------------|----------|--|
| Issue No. 1 | : | Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages. |
| Issue No. 2 | : | No |
| Relief | : | Reference answered in affirmative as per operative part of award. |

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Deepak Kaushal, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 11-07-2016 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not

affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D, dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in

order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/ approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started

functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been compiled with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the

Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services.”

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as “willful absence” and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media, Dated 20-03-2020 issued instructions which reads as under:

“The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee’s/ worker’s services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State.”

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce

their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall

carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 274 of 2020
Instituted on : 09-10-2020
Decided on : 20-07-2026**

Karnail Singh, s/o Sh. Raghuvir Singh, Village Madhawala, P.O. Nanakpur, Tehsil Kalka,
District Panchkula, Haryana. . . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 29-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Sh. Karnail Singh, s/o Sh. Raghuvir Singh, Village Madhawala, P.O. Nanakpur, Tehsil Kalka, District Panchkula, Haryana *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 01-06-2009 with the respondent and

appointment letter was issued by the respondent to the petitioner. The petitioner was discharging his duties with the respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown has been enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, respondent wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster roll as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent has not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place *i.e.* respondent to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. The illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings have started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 01-06-2009 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there has been no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondent threatened the other employees that if they pressurize the management regarding reinstatement of the services, their joining of services will be taken in North East of some other State as a punishment. The petitioner

thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through out with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that any employee who was a part or industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglected his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/ medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 13-04-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 8(a) of Appointment Letter No. TBM/PER/APPT/761/2010, dated 01-09-2010 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 1,01,644/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP*.

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR*.

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Karnail Singh, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence identity card Ex. PW-1/B and willingness to join duty Mark-X.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty

immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent. He has denied that letter mark-X was not sent by him to the respondent company. He has denied that he is deposing falsely.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arrangement for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join then he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 01-06-2009 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he

was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D, dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected the have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/ absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place on 05/06-06-2020 but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/ approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to report for duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. In

the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that in spite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time

Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was no any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as "willful absence" and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, vide DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

"The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/ worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/ salaries. In the backdrop of such challenging situation, all the Employers of Public/ Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State."

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in

service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-

(PREETI THAKUR)

Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla (H.P.).

IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA.

Reference No. : 275 of 2020
Instituted on : 09-10-2020
Decided on : 20-07-2026

Sanjay Kumar, s/o Sh. Tek Chand, Village & P.O. Oend, Tehsil Nurpur, District Kangra, H.P. . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
 For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 29-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Sh. Sanjay Kumar, s/o Sh. Tek Chand, Village & P.O. Oend, Tehsil Nurpur, District Kangra, H.P., *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act,

1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?"

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 14-02-2012 with the respondent and appointment letter was issued to the petitioner. The petitioner was discharging his duties with respondent company. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, respondent wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster roll as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent did not provide any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain closed for next few days and he will be communicated through telephone call/messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. Due to the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner had worked with the respondent company till 23-03-2020 and when he came back to join his duty the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for

the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part or industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglected his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 24-03-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 29-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 6 of Appointment Letter dated 14.02.2012 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP.*

2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPP.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Sanjay Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B and postal receipt dated 24-07-2020 Ex. PW-1/C, I.D. Proof Mark PX-1, letter 01-03-2012 Mark-PX-2, letter 01-03-2012 Mark-PX-3 and letter dated 29-05-2020 Mark PX-4.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the

respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent. He has denied that he has deposing falsely.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 12-02-2012 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he

was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondent Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector" *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected the have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Admittedly, the respondent had issued the notice dated 29-05-2020 Mark-PX-4 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 Mark-PX-4 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. Admittedly, the petitioner has received notice dated 29-05-2020 Mark-PX-4 wherein it was

conveyed to him that due to his absence his name has been removed from the company muster rolls. From the perused of the notice dated 29-05-2020 Mark-PX-4, it is clear that the petitioner was intimated that his name has been removed from muster rolls and there is no mention in the aforesaid notice that the petitioner was given opportunity to resume his duties. From the aforesaid notice it is also clear that the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services.”

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. But, according to the petitioner, said notice was no any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. The perusal of said notice Mark-PX-4 also indicates the same. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as “willful absence” and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

“The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee’s/ worker’s services are dispensed with on this pretext or the employee/ worker are forced to go on leave without wage/ salaries. In the backdrop of such challenging situation, all the Employers of Public/ Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State.”

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without

holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No : 276 of 2020
Instituted on : 09-10-2020
Decided on : 20-07-2026**

Sudesh Kumar s/o Shri Sunder Singh r/o Village Badlowag, P.O. Chambi, Tehsil Chaupal,
District Shimla, H.P. . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 29-09-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Sudesh Kumar S/o Shri Sunder Singh r/o Village Badlowag, PO Chambi, Tehsil Chaupal, District Shimla, H.P. *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 11-07-2016 with the respondent and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there is complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority i.e. District Collector. In the month of April 2020, the State Government of

H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principle of natural justice. The public transport started with certain restrictions in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. For the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baddi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 14-02-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there was no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Central Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they pressurize the management regarding reinstatement of the services, their joining of services will be taken in North-East or some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and

falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demand for diagnostic equipment’s/ medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 6 of Appointment Letter No. TBM/HR/APPT/2411/2016 dated 11-07-2016 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29.05.2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 3,727/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP.*
2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1.

10. To substantiate his case, the petitioner namely Shri Sudesh Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B, ID Proof Mark PX-1 and letter dated 29-06-2020 Mark PX-2.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has

admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 11-07-2026 and since then was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/ private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020

whereafter certain restrictions were eased in a phased manner. Per respondents Central Government as well as State Government (H.P.), had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector” *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01.05.2020 the nationwide lockdown was further extended by two weeks. It was from 30.05.2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment

of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action i.e. firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity i.e. from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately vide said notice cannot be accepted particularly when the petitioner has stated that he was intimated vide said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against

the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absents from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

"The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services."

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon his to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an

intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as “willful absence” and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

“The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee’s/ worker’s services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/ Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/ Owners of all the establishments in the State.”

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 281 of 2020
Instituted on : 27-10-2020
Decided on : 20-07-2026**

Sunil Kumar s/o Shri Raj Kumar r/o Village & P.O. Dharmna, Tehsil Nalagarh, District Solan, H.P. . . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpura, P.O. Bhud, Tehsil Baddi, District Solan, H.P. . . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 08-10-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Shri Sunil Kumar S/o Shri Raj Kumar R/o Village & PO Dharmna, Tehsil Nalagarh, District Solan, H.P. *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Technician on 11-07-2016 with the respondents and appointment letter was issued by respondent to the petitioner. The petitioner was discharging his duties with respondent. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Technician in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of

H.P. as well as Government of India had issued an advisory/ instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster rolls as the petitioner was found absent from duty during the period of lockdown. Respondent was not provided any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it is not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restrictions in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain close for next few days and you will be communicated through telephone call/ messages. After 15 days the petitioner and other employees went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. The illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent had appeared before the Labour Officer and the dispute could not be settled. The action of the respondents by terminating the services of the petitioner without framing/issuing any charge sheet or conducting any domestic enquiry. The petitioner was working with the respondent company *w.e.f.* 14-02-2012 till 23-03-2020 and when he came back to join his duty in the month of June, 2020 the respondent denied him entry into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner was working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The respondents threatened the other employees that if they pressurize the management regarding reinstatement of the services, their joining of services will be taken in some other State as a punishment. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and

falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who was a part of industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he has willingly and voluntarily neglecting his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment’s/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties during covid period. It is mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date to till 28-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Appointment Letter No. TBM/PER/APPT-TEMP/207/2016, dated 13-07-2016 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited in the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement amounting to Rs. 71/- which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP.*
2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Sunil Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B and appointment letter Ex. PW-1/C.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has

shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Technician with the respondent company on 13-07-2016 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/ private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services, he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondents Central Government

as well as State Government (H.P.), had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution unit, both in public and private sector” *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/ absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Although, no such notice is placed on record however, it stands admitted that the respondent had served the notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no

denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. In the present matter the respondent has claimed to have issued notices to the petitioner to join the job however no such notice has been placed and proved on record by the respondent. The petitioner has admitted to have received notice dated 29-05-2020 in pursuance to which he has claimed to have visited his work place however he was denied entry on the pretext that the factory has not started functioning yet. The matter remains that the petitioner has only received notice dated 29-05-2020 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. Since, notice dated 29-05-2020 has not been placed and proved on record by the respondent therefore the version of the respondent that the petitioner was informed to resume the duties immediately *vide* said notice cannot be accepted particularly when the petitioner has stated that he was intimated *vide* said notice that his name has been removed from muster rolls. As per petitioner, the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the

case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr.*, 2017 LLR 35, Hon'ble High Court of Punjab and Haryana has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in *Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand*, 2019 (160) FLR 16, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in 2001 LLR 54, *M/s Scooters India Ltd., Vs. M. Mohammad Yaqub* that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been complied with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that in spite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services.”

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon him to resume the duties. Although, no such notice dated 29-05-2020 has been placed on record however, the same has been admitted by the petitioner as received by him. Fact admitted need not to be proved. But, according to the petitioner, said notice was nor any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and

that his name is removed from the muster rolls. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as “willful absence” and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media Dated 20-03-2020 issued instructions which reads as under:

“The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee’s/worker’s services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.”

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it

has been held by the Hon'ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee's entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-
(PREETI THAKUR),
*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

**Reference No. : 282 of 2020
Instituted on : 27-10-2020
Decided on : 20-07-2026**

Anil Kumar Vs. Jagdev Singh r/o Village & P.O. Babehad, Tehsil Dhanari, District Una,
H.P. . . . *Petitioner.*

Versus

The Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil
Baddi, District Solan, H.P. . . . *Respondent.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Vivek Chandel, Advocate.
For the respondent : Shri Ajay Kumar Sharma, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 08-10-2020, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication :

“Whether termination of the services of Sh. Anil Kumar Vs. Jagdev Singh r/o Village & P.O. Babehad, Tehsil Dhanari, District Una, H.P. *vide* letter dated 29-05-2020 by the Factory Manager, M/s Transasia Bio Medical Ltd., Village Malpur, P.O. Bhud, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was initially appointed as Logistic Assistant on 01-02-2013 with the respondent and appointment letter was issued to the petitioner. The petitioner was discharging his duties with respondent company. It is submitted that the petitioner was working with the respondent company with utmost sincerity and as per the directions of his superior. While discharging duty as Logistic Assistant in the production unit, on 23-03-2020, the Government of India has declared complete lockdown all over the nation due to emergency/ epidemic of COVID-19 initially for two weeks and thereafter the national lockdown was enhanced by the Government of India as well as State of Himachal Pradesh. Petitioner during the months of March, 2020 and April, 2020 was in Baddi, Solan H.P. because there was complete lockdown in the entire country as well as State of H.P. and there was neither any public transport nor any private vehicle plying without the permission of appropriate authority *i.e.* District Collector. In the month of April 2020, the State Government of H.P. as well as Government of India had issued an advisory/instructions regarding plying of vehicles in the state, so that people can reach their home safely. It is further submitted that in the

month of June, 2020 only selective activities were allowed with the prior permission of the respective authority. The petitioner has received a letter dated 29-05-2020 from the respondent, respondent wherein it has been mentioned by respondent company that the name of the petitioner has been removed from company muster roll as the petitioner was found absent from duty *w.e.f.* 24-03-2020 *i.e.* from the date of lockdown. Respondent did not provide any opportunity to the petitioner to defend himself against this illegal and irregular act. It is submitted that the whole nation was under the national lockdown and it was not possible for anyone to visit the respondent company. The notice of the company regarding removal of the services of petitioner is clear violation of State Government as well as Government of India. The petitioner was not granted any opportunity of being heard before passing this illegal order, which is clear violation of principal of natural justice. The public transport started with certain restriction in the month of June, 2020 and petitioner in the first week of June, 2020 went to his work place to resume his duty but respondent ordered the petitioner that due to Covid-19 the factory will remain closed for next few days and he will be communicated through telephone call/ messages. After 15 days the petitioner and other employee went to the factory but they were not allowed to enter on the pretext of Corona and asked to come after one month. The petitioner had requested number of times to the respondent regarding willingness to join duty but no reply was given by the respondent. Due to the illegal termination of the services of petitioner by the respondent, petitioner filed a complaint under Section 2(a) of the Act, before the Labour and Conciliation Officer at Baadi, Solan, H.P., however the conciliation proceedings were started but none of the respondent has appeared before the Labour Officer and the dispute could not be settled. The action of the respondent by terminating the services of the petitioner without framing/ issuing any charge sheet or conducting any domestic enquiry. The petitioner had worked with the respondent company till 23-03-2020 and when he came back to join his duty the respondent refused him to enter into the premises of the factory and told that his services have been terminated on the basis of unauthorized absence from the duty. The petitioner is working with the respondent company for the last 10 years and there is no adverse remark against his performance. The respondent company has not paid the admissible salary to the petitioner for the period of lockdown whereas Centre Government as well as State Government of H.P. has made directions to all the establishment in the state that the salary shall be paid to the workers but respondent company has not followed any rules/provisions/directions of the state. The petitioner thereafter prayed that his termination be quashed and set-aside and he be ordered to be reinstated with full back wages, seniority and other consequential service benefits through with costs.

3. On notice, the respondent appeared and filed the reply.

4. The claim petition was contested by the respondent by taking preliminary objections regarding maintainability. It is submitted that there was national lockdown imposed by the Central Government due to pandemic situation arisen at the specific period. It is further submitted that the said company is engaged in the business of manufacturing reagents and medical instruments, (IVD industry) *i.e.* a Medical Establishment which is directly related to health and medical industries and falls under the category of “Essential Services”. At the relevant time and during the lockdown period, the Central Government as well as the State Government of H.P. had clearly exempted “hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector *i.e.* dispensaries, chemist, medical equipment shops, laboratories, clinics, nursing homes, ambulance, etc. It is further stated that if any employee who

was a part or industry falling under essential services or such industry or establishment was allowed to attend the work presenting his/her identity card to the concerned authorities. The respondent craves to leave, refer and rely upon such notification issued by Central/ State Government. It is submitted that the nationwide lockdown was imposed *w.e.f.* 24-03-2020 however, the petitioner was part of medical industry (part of essential services) who was allowed to remain functional during the course of lockdown and petitioner was being aware of the aforesaid facts but he was willingly and voluntarily neglected his duties and left for his hometown without information. It is further submitted that the respondent company continued its operation as a manufacturing and reagent establishment including working of employee during the period of lockdown for smooth functioning of work as there was huge demands for diagnostic equipment's/medical devices during the period of epidemic. Petitioner without informing the respondent company had left the employment without prior intimation and remained absent from his duties. There is no written correspondence, e-mail or telephonic conversation between petitioner and respondent to support that the petitioner had obtained prior information or gave intimation before he left for his hometown. It is admitted fact that respondent had served a notice dated 29-05-2020 upon the petitioner for voluntary abandonment of services, as he was absent from duties *w.e.f.* 25-03-2020. It has mentioned in the said notice that respondent had tried to connect with him but there was no response from the petitioner. He has denied that the respondent did not gave ample opportunity to the petitioner to join the respondent company again for the purpose of employment from his last working date till 29-05-2020. It is submitted that notice dated 29-05-2020 clearly speaks the reason for termination of services which was as per the rule framed under Clause 8(c) of Appointment Letter dated 01-02-2013 issued to the petitioner and he was well aware that his services would be terminated on the basis of his appointment letter. It is further submitted that the factory was operating with its worker during the lockdown and petitioner never visited the factory neither in the month of June, 2020 nor thereafter. After the service of the notice dated 29-05-2020, respondent has also addressed a letter dated 16-07-2020 to the petitioner for his full and final settlement which was not accepted by him. In view of the above submissions, the respondent has prayed that the petition be dismissed.

5. No rejoinder has been filed.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 07-12-2022.

1. Whether the termination of the services of petitioner *w.e.f.* 29-05-2020, by the respondent without complying the provisions of the Industrial Disputes Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . . . *OPP.*
2. Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged? . . . *OPR.*

3. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : Yes. Entitled for reinstatement with seniority and continuity along-with full back-wages.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. To substantiate his case, the petitioner namely Shri Anil Kumar, has appeared in the witness box as (PW-1) and tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the averments as made in his claim petition. He has also tendered in evidence letter of willingness to join duty Ex. PW-1/B, appointment letter Mark PX-1 and letter dated 29-05-2020 Mark PX-2.

11. During cross-examination, he has admitted that he was engaged in the services through appointment letter. He has admitted that there is stipulation in the appointment letter that in case he is found absent without approval or intimation than his services shall be dispensed with. He has admitted that the respondent company deals in medical equipments. He has admitted that company was working during lockdown period. Volunteered that they had left to their native place during Covid period. He has denied that they have left the station without informing or intimating the respondent. He has denied that Anil Pathania, HR Manager has been requesting him to join the duty immediately. He has denied that he has no grievances against the respondent company. He has denied that he has received full and final settlement amount from the respondent. He has denied that letter mark-X was not sent by him to the respondent company. He has denied that he has deposing falsely.

12. In order to rebut the case of the petitioner, the respondent has examined Sh. Anil Pathania, Authorized Representative of respondent company, as RW-1, who has also tendered in evidence his affidavit Ex. RW-1/A, which is just a reproduction of the averments as made in the reply.

13. During cross-examination, he has stated that whatsapp. message was sent to the petitioner to resume the duties within 7 days as the petitioner was on unauthorized leave. As per him whatsapp. message was sent in the month of April, 2020. He has denied that no communication was made with the petitioner nor any whatsapp. message was sent to him. He has admitted that during lockdown period the vehicle were being plied with 50% occupancy. He has shown his ignorance that the vehicles which are mentioned in his examination-in-chief are personal vehicles. Volunteered that respondent has obtained passes for these vehicles. He has shown his

ignorance that the vehicles bear taxi number or are personal vehicles. He has admitted that the above vehicles were being plied with the sitting capacity of 2 passengers plus driver. He has stated that the strength of workers in the respondent company is about 70. He has stated that the factory at the time of Covid was functioning on alternative days in a single shift. He has admitted that the respondent has not placed any document to show that the respondent company was functional during Covid time. Volunteered that since the respondent company is manufacturing medical equipments and chemical which comes under essential services as such the respondent company was functional during Covid period. He has stated that no I card was issued to the workers during Covid period. He has stated that the beds were arranged besides the factory for the workers. He has stated that no intimation was given to the petitioner or other workers that the respondent has made arranged for their stay in the factory premises during Covid period. He has denied that the respondent company was closed till June, 2020. He has denied that no conveyance facility was provided to the petitioner and other workers during Covid period. He has stated that no enquiry was conducted against the petitioner for his alleged absence. Volunteered that when the petitioner did not join than he was treated to have left the job on his own. He has stated that the petitioner has abandoned the job himself. He has denied that no communication was made with the petitioner. He has stated that no compensation was paid to the petitioner however his salary for actual days he has worked was paid to him.

14. This is the entire oral and documentary evidence led by the parties.

15. It is not in dispute that the petitioner was engaged as Logistic Assistant with the respondent company on 01-02-2013 and since then he was discharging his duties in the said company. It is the version of the petitioner that due to nationwide lockdown which was declared on 23-03-2020, there was complete restriction in the movement of the public/ private transport due to which it became impossible for him to visit the work place *i.e.* respondent company. It is the version of the petitioner that in the month of June, 2020 the restrictions were relaxed by the authorities whereafter he approached the respondent company in the first week of June, 2020 to resume his duties but he was told that the factory would remained closed for another few days and the communication would be sent to him regarding the functioning of the factory. As per petitioner, he went to the factory number of times but he was not allowed to enter the premises.

17. The aforesaid contentions of the petitioner are denied by the respondent company and according to respondent company the restrictions imposed during Covid-19 pandemic had not affected the establishments like respondent who were engaged in the business of manufacturing and selling of medical instruments and reagents used by the laboratories and hospitals. It is further contention of the respondent that since the petitioner was the employee relating to the establishment dealing in essential services he was allowed to attend the work on showing his identity card to the authorities concerned. Further that the petitioner being fully aware of the aforesaid fact willingly and voluntarily neglected his work and went to his hometown without informing the respondent.

18. Coming to the evidence, undisputably there was outbreak of Covid pandemic in the year, 2020 and the entire country was put under lockdown from 24-03-2020 till May, 2020 whereafter certain restrictions were eased in a phased manner. Per respondent Central Government as well as State Government (H.P.), had clearly exempted "hospitals and all related medical

establishments, including their manufacturing and distribution unit, both in public and private sector” *vide* notification Ministry of Home Affairs Order no. 40-3/2020-D dated 24-03-2020 and the employee who was the part of industry falling under essential services was allowed to attend the work by presenting his/her I Card to the authorities concerned. No doubt, that the establishments dealing with essential services were allowed to remain functional during lockdown but here the question is whether the respondent company in fact remained functional and if so, whether the said fact was in the knowledge of the petitioner being worker of the said company.

19. In so far as the knowledge of the petitioner as regards to the functioning of the respondent company during lockdown period is concerned, there has nothing appeared in the evidence to prove the same. Although, the petitioner has admitted that the respondent company deals in medical equipments and was functioning during lockdown period however this admission of the petitioner nowhere implies that he had knowledge of the same at the relevant time. Assuming that the petitioner had knowledge about the functioning of the company during lockdown period even then he cannot be expected to have violated the curfew restrictions which were imposed during lockdown period. Here, the respondent has contended that the employees attached to the essential services were never restricted to attend their work place during that period and the petitioner has willingly not attended the work during that period. This contention of the respondent holds no force since it is common knowledge that during Covid-19 pandemic, government implemented unprecedented personal restrictions to limit virus transmission. The movement of people were restricted. The public and private transport was suspended. On 01-05-2020 the nationwide lockdown was further extended by two weeks. It was from 30-05-2020 onwards that the unlock phase started and the restrictions were eased. As per RW-1 no I cards were issued to the workers during Covid time by them and if so then how could the respondent expect the petitioner to attend the work place during Covid restrictions. The respondent has also nowhere led any evidence to the effect that the other workers of the company continued to attend the work during Covid period and it is only the petitioner who remained out of work/absent. Moreover, no evidence has been led to show the manner and the strength with which the respondent company functioned during Covid period.

20. As per respondent, during Covid period the factory used to function on alternate days in a single shift and they have obtained the permission from the authorities to ply the vehicles for the workers from their residence to their work place. This apart, the arrangement for staying of the workers was also made inside the factory premises. Firstly, the respondent has led no evidence in order to establish the aforesaid contentions that the factory used to function on alternate days in a single shift during Covid period and further that the said fact was in the knowledge of the petitioner. Assuming that the factory functioned during the period in the manner stated by the respondent even then nothing has been placed on record by the respondent in order to show that the company has intimated regarding the functioning, arrangements qua conveyance and lodging to the workers including the petitioner.

21. Admittedly, the respondent had issued the notice dated 29-05-2020 Mark-PX-2 upon the petitioner for voluntary abandonment of services as the petitioner was absent from duties during March, April and May. There is no denial to this fact by the petitioner that he remained absent from duties since the outbreak of pandemic. As per petitioner on the receipt of notice dated 29-05-2020

Mark-PX-2 and after the Covid restrictions were eased, he reported at his work place but was directed to come after few days. Here, if the version of petitioner is ignored that he reported for work on receiving notice dated 29-05-2020 from the respondent, even then the respondent has not placed and proved on record the consequential proceedings undertaken by the management in defiance to said notice and consequent to the alleged abandonment by the petitioner.

22. It is pertinent to mention that unauthorized absence refers to situation wherein the employee is on leave without sanction/approval from the employer. Such an act tantamount to misconduct on the part of the employee. The employer may choose any of the two course of action *i.e.* firstly the employer may condone the unauthorized absence of the employee by accepting the explanation given by him and sanctioning leave for the period of the unauthorized absence. Secondly, the employer may treat the unauthorized absence of the employees as misconduct, therefore, hold an enquiry and impose a punishment on the employee for the misconduct. It is further pertinent to mention that in cases, where the employee who is unauthorizedly absent from work does not report back to work or where the explanation given by the employee is not satisfactory, the employer will take recourse to disciplinary action with regard to the unauthorized absence. Here it would not be out of place to mention that if the absence is the result of compelling circumstances under which it was not possible to or report duty, such absence cannot be held to be willful. Thus, absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always mean willful. However, whether the unauthorized absence is willful or intentional is the subject matter of disciplinary proceedings.

23. It is the plea taken by the respondent that the petitioner has left the employment without informing and has remained absent from his duties. It is the plea that the respondent has given ample time and opportunity *i.e.* from his last working date till 29-05-2020 to the petitioner to join the work but the petitioner never turned back. Thus, as per respondent the petitioner has abandoned the job. So far as the said plea taken by the respondent it is well known that abandonment has to be proved like any other fact. Needless to mention that simply because a workman fails to report for duty, it cannot be presumed that he/ she has left/abandoned the job. Admittedly, the petitioner has received notice dated 29-05-2020 Mark-PX-2 wherein it was conveyed to him that due to his absence his name has been removed from the company muster rolls. From the perused of the notice dated 29-05-2020 Mark-PX-2, it is clear that the petitioner was intimated that his name has been removed from muster rolls and there is no mention in the aforesaid notice that the petitioner was given opportunity to resume his duties. From the aforesaid notice it is also clear that the principles of natural justice were not followed as no opportunity of being heard was afforded to him to explain his absence. Here, it is again required to be mentioned that absence from duty is a serious misconduct. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. On this aspect of the case, RW-1 Sh. Anil Pathania, has categorically deposed that no enquiry was conducted for the alleged absence of the petitioner. It is also volunteered by this witness that when the petitioner did not join then he was treated to have left the job at his own.

24. In *Satbir Singh Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat & Anr., 2017 LLR 35, Hon'ble High Court of Punjab and Haryana* has held that the plea of abandonment of job taken by the management in the absence of issuance of notice to the workman in this respect, when he was absenting from duties, is not sustainable.

25. Further in ***Eagle Hunter Solutions Ltd., Vs. Shri Prem Chand, 2019 (160) FLR 16***, it has been held by the Hon'ble Delhi High Court that burden of proving of abandonment is upon the management. Simply because a workman fails to report for duty, it cannot be presumed that he/she has left/abandoned the job. It has been held by the Hon'ble Supreme Court in ***2001 LLR 54, M/s Scooters India Ltd., Vs. M. Mohammad Yaqub*** that when a workman fails to report for duties, the management cannot presume that the workman has left the job despite being called upon to report failing which his name will be removed from the rolls. It was further held that the principles of natural justice were required to be followed by giving opportunity to the workman. Para 12 is relevant and is reproduced as under:

“The question which then arises is whether the principles of natural justice were followed in this case. As has been set out herein above Mr. Swroop had submitted that the workman had been given an opportunity to join the duty and that he did not join duty even though repeatedly called upon to do so. It is contended that principles of natural justice have been compiled with in this case. However, the material on record indicates otherwise. The Labour Court in its award sets out and accepts the respondent's case that he had not been allowed to join duty. The respondent has given evidence that even though he personally met Chief Personnel Officer, he was still not allowed to enter the premises. The evidence is that inspite of slip Ex. W.2, he was prevented from joining duty when he attempted to join duty. The slip Ex. W.2 had been signed by the Security Inspector of the appellant. This showed that the respondent had reported for work. As against this evidence, the appellant has not led any evidence to show that the workman had not report for duty. Even, though the slip Ex. W.2 had been proved by the workman, the Security Inspector, one Mr. Shukla was not examined by the appellant. Further the evidence of the senior Time Keeper of the appellant established that the appellant had worked for more than 240 days within period of 12 calendar months immediately preceding the date of termination of service. This was proved by a joint inspector report, which was marked as Ext. 45/A. It was on the basis of this material and the evidence that the Labour Court came to the conclusion that there was retrenchment without flowing the provisions of law. As the workman was not allowed to join duty, Standing Orders 9.3.12 could not have been used for terminating his services.”

26. In the instant case the respondent has failed to establish that any prior notice or intimation was issued to the petitioner qua his absence from duties since the start of lockdown and calling upon his to resume the duties. But, according to the petitioner, said notice was no any show cause notice or the direction for resumption of duties. Per petitioner the said notice dated 29-05-2020 was an intimation made to him that his absence period is assumed as willful absence by the respondent and that his name is removed from the muster rolls. The perusal of said notice Mark-PX-2 also indicates the same. It appears that without issuance of any show cause notice and without giving any opportunity to resume the duties, the respondent has assumed the absence of the petitioner as “willful absence” and has arrived on the conclusion to remove the name of the petitioner from muster rolls and discontinued the services of the petitioner. The said act of the respondent is unwarranted in law.

27. Again, stated that absence from duties is a serious misconduct. In the present matter no disciplinary proceedings were initiated against the petitioner for the alleged willful absence. Apparently, not even a show cause notice was issued to the petitioner. Therefore, the plea of

abandonment put forth by the respondent is not established. At the same time, there is no denial to the fact that there was an outbreak of Covid-19 pandemic and the entire country was put under lockdown as a consequence of which there were curfew restrictions till the month of June, 2020. During that time Ministry of Labour & Employment Government of India, *vide* DO No. M-11011/08/2020-Media, Dated 20-03-2020 issued instructions which reads as under:

“The world is facing catastrophic situation due to outbreak of Covid-19 and in order to combat this challenge, coordinate joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee’s/worker’s services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries. In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty. The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.”

28. Thus, keeping in view the challenging situation faced during Covid Pandemic and advisory was also issued by the Government of India that the employers of public/private establishments to extend their coordination by not terminating their employees from job or reduce their wages and if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period.

29. In the back-ground of aforesaid facts and circumstances it can safely be held that the termination of services of petitioner without serving any show cause notice/chargesheet and without holding any enquiry for his alleged willful absence is illegal and unjustified in law. Also in view of the aforesaid notification issued by the Government of India, the termination of services of the petitioner during Covid-19 pandemic is illegal and unjustified. Hence, the petitioner is held entitled for reinstatement in service with seniority and continuity.

30. The petitioner as per his pleadings has claimed full back-wages. In *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.E.D) and Others (2013) 10 SCC 324*, it has been held by the Hon’ble Supreme Court that the denial of back wages would amount to indirectly punishing the employee and rewarding the employer by relieving him of the obligation to pay back wages and where an employer wants to deny back wages or contest the employee’s entitlement to get consequential benefits, employer has to plead and prove that employee was gainfully employed during the intervening period.

31. To my mind, now if the respondent wanted to avoid the payment of full back-wages, then he had to specifically plead and also lead cogent evidence to prove that the petitioner was

gainfully employed and was getting wages equal to the wages he was drawing prior to the termination of his service. Since, in the case in hand, the petitioner has claimed that he was not employed anywhere after his termination, the onus rested on the respondent to specifically plead and prove that the petitioner was gainfully employed and was getting the same or substantially the similar emoluments. However, the same has not been done by the respondent in the present case. Neither, it has been pleaded nor any iota of evidence has been led on record by the respondent to show that the petitioner was gainfully employed. Therefore, I have no hesitation to hold that the petitioner is entitled for full back-wages from the date of his illegal termination till his reinstatement.

32. Accordingly, this issue is decided in affirmative in favour of the petitioner.

ISSUE NO. 2

33. The burden to prove this issue was upon the respondent. No evidence has been led by the respondent in order to establish that the claim petition is not maintainable. Moreover, I find nothing wrong with this claim petition, which is perfectly maintainable in the present form. Accordingly, this issue is answered in the negative and against the respondent.

RELIEF

34. As a sequel to my above discussion and findings on issues no. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and he is accordingly ordered to be re-instated in service forthwith with seniority and continuity in service with effect from the date of his termination along-with full back-wages. The back-wages shall be payable by the respondent within a period of three months from the date of publication of the award, failing which the same shall carry an interest @ 9% per annum. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today on this 20th day of July, 2026.

Sd/-

(PREETI THAKUR)

*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).*

**BEFORE PREETI THAKUR, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA AT NALAGARH**

Reference No.	:	30 of 2023
Instituted on	:	01-03-2023
Decided on	:	24-07-2026

Chanderkesh Pradhan & 3 others, r/o Ward No. 7, Near D.L.C. Colony, Nalagarh, District Solan, H.P. . . . *Petitioner.*

Versus

The Occupier/Factory Manager, M/s Laser Shaving Products Pvt. Ltd., Ramshehar Road,
Tehsil Nalagarh, District Solan, H.P. . . Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.
For the Respondent. : Sh. Rajeev Kumar Sharma, Adv.

AWARD

The reference given below has been received from the appropriate Government for adjudication :

“Whether the action of workers S/Sh. Chanderkesh Pradhan (2) Sh. Bharat Sharma, (3) Sh. Sudesh Kumar & (4) Sh. Parveen Kumar, R/O Ward No. 7, Near D.L.C. Colony, Nalagarh, District Solan, H.P. not to join their duties in compliance of appointment letter dated 28-02-2022 issued by the employer i.e. M/s Laser Shaving Products Pvt. Ltd., Ramshehar Road, Tehsil Nalagarh, District Solan, H.P. and demanding reinstatement in services with increment vide demand notice dated 14-03-2022 and 21-04-2022 is legal and justified? If yes, what relief of service benefits, the above workers are entitled to from the above employer? And if not, what it is legal effect?”

2. The case was listed for appearance of the parties for today but, neither the petitioners nor their counsel had put in appearance before this Tribunal, despite the case being called several times since morning. Clearly, despite due notice of the date of hearing, the workmen/petitioners had remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for brevity sake). Section 2 (b) of the Act defines the Award as under :—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit. The Central Government has framed rules called “The Industrial Disputes (Central) Rules, 1957.” Rule 10-B (9) reads thus:—

“10-B (9) In case any party defaults or fails to appear at any stage the Labour Court, Tribunal, or National Tribunal, as the case may be, may proceed with the reference ex-parte and decide the reference application in the absence of the defaulting party.”

5. Rule 22 reads thus :—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend

or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

6. The State of Himachal Pradesh has also framed rules called "The Industrial Disputes Rules, 1974." Rule 25 thereof reads thus:—

"Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

7. Rule 22 of the Industrial Disputes (Central) Rules, 1957 and Rule 25 of the Industrial Disputes Rules, 1974 authorize the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Tribunal to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex-parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Tribunal, thus, has to imagine that the workman is present, he is unwilling to adduce evidence or argue their case.

8. In the instant case, neither the parties nor any counsel had put in appearance before this Tribunal today. In these circumstances, the Tribunal can proceed and pass *ex parte* award on its merits.

9. As per the reference, it was required of the petitioners to plead and prove on record that the demand notices dated 14-03-2022 and 21-04-2022 was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleadings nor any evidence to this effect on record on the part of the petitioners/workmen. At the risk of repetition, it is reiterated that the petitioners/workmen had not put in appearance before this Tribunal despite having been served in accordance with law which clearly shows that the petitioners/workmen are not interested to pursue the present reference. In this view of the matter, the petitioners are not entitled to any relief. Accordingly, this reference is answered in the negative.

10. The reference is answered in the aforesaid terms.

11. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 24th day of July, 2026.

Sd/-

(PREETI THAKUR)

*Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla, (H.P.).*

**BEFORE PREETI THAKUR, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA AT NALAGARH**

Reference No. : 71 of 2024
Instituted on : 03-09-2024
Decided on : 24-07-2026

Gurcharan Singh, s/o Sh. Nikku Ram, r/o Village Nava Nagar, P.O. Panjehra, Tehsil Nalagarh, District Solan, H.P. . . . *Petitioner.*

Versus

The Factory Manager, Kala Amb Distillery & Brewery Pvt. Ltd., Unit-9th Mile Stone, Swarghat Road, Village Bhangia, Tehsil Nalagarh, District Solan, H.P. . . Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947

For the Petitioner : Nemo.
For the Respondent : Nemo.

AWARD

The reference given below has been received from the appropriate Government for adjudication :

“Whether the termination of the services of Sh. Gurcharan Singh, S/O Sh. Nikku Ram, R/O Village Nava Nagar, P.O. Panjehra, Tehsil Nalagarh, District Solan, H.P., by the Factory Manager M/S Kala Amb Distillery & Brewery Pvt. Ltd., Unit-9th Mile Stone, Swarghat Road, Village Bhangia, Tehsil Nalagarh, District Solan, H.P. w.e.f. 28-08-2023 without complying with the provisions of the Industrial Disputes Act, including reinstatement, seniority, amount of back wages, past service benefits and compensation the above aggrieved workman is entitled to from the above management?”

2. After receiving the reference, this tribunal issued notices to the parties for their appearance. On 11-11-2024 the petitioner appeared and the matter was further listed for appearance for respondent. On 20-04-2026 and 04-06-2026, the notices issued by this tribunal were served upon both the parties i.e. petitioner as well as respondent, however none of them has put appearance before this Court. Again in the interest of justice the parties were directed by this tribunal to be served with the notices for today i.e. 24-07-2026 however the parties despite being served, have not put their appearance as such, this tribunal is left with no alternative but to decide the reference on the basis of material whichever is available on file. Thus, despite being served, the petitioner has not appeared before this tribunal and has remained *ex-parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for brevity sake). Section 2 (b) of the Act defines the Award as under:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit. The Central Government has framed rules called “The Industrial Disputes (Central) Rules, 1957.” Rule 10-B (9) reads thus:—

“10-B (9) In case any party defaults or fails to appear at any stage the Labour Court, Tribunal, or National Tribunal, as the case may be, may proceed with the reference ex-parte and decide the reference application in the absence of the defaulting party.”

5. Rule 22 reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a

Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

6. The State of Himachal Pradesh has also framed rules called "The Industrial Disputes Rules, 1974." Rule 25 thereof reads thus:—

"Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

7. Rule 22 of the Industrial Disputes (Central) Rules, 1957 and Rule 25 of the Industrial Disputes Rules, 1974 authorize the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Tribunal to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Tribunal, thus, has to imagine that the workman is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

8. In the instant case, neither the parties nor any counsel had put in appearance before this Tribunal today. In these circumstances, the Tribunal can proceed and pass *ex parte* award on its merits.

9. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services *w.e.f.* 28-08-2023 was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect on record on the part of the petitioner/workman. At the risk of repetition, it is reiterated that the petitioner/workman had not put in appearance before this Tribunal. In this view of the matter, the petitioner is not entitled to any relief. Accordingly, this reference is answered in the negative. Parties to bear their own costs.

10. The reference is answered in the aforesaid terms.

11. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 24th day of July, 2026.

Sd/-
(PREETI THAKUR),
Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).

**IN THE COURT OF PREETI THAKUR, PRESIDING JUDGE H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA.**

**Reference No : 182 of 2021
Instituted on : 16-09-2021
Decided on : 30-07-2026**

Avdhesh Partap Singh, s/o Sh. Rudra Partap Singh, near Aman Public School Utri, Kaurandia Sidhi, Tehsil Gopadbanaas, District Sidhi, Madhya Pradesh-486661 since deceased through his legal heirs.

1. Smt. Ambika Singh, w/o Late Sh. Avdhesh Partap Singh.
2. Pus H.P. a Singh, d/o Late Sh. Avdhesh Partap Singh.
3. Shailender Singh, s/o Late Sh. Avdhesh Partap Singh.
4. Sakshi Singh, d/o Late Sh. Avdhesh Partap Singh.

All resident of Village Ramdin, P.O. Amarapur, Tehsil Bahari, Ramdih, Sidhi, Madhya Pradesh. . . *Petitioner.*

Versus

1. The Occupier/ Factory Manager, M/s Himachal Baspa Power Company Ltd., Karchum Wangtu & Baspa-II Hydro Electric Project, Shoultu Colony, P.O. Tapri, Tehsil Nichar, District Kinnaur, H.P.

2. The Occupier/ Factory Manager, M/s JP Karcham Hydro Corporation Ltd., Tapri, District Kinnaur, H.P. . . *Respondents.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri R.K. Khidta, Advocate.
For the respondents : Shri Rahul Mahajan, Advocate.

AWARD

The following reference petition has been received from the appropriate Government *vide* notification dated 27-08-2021, under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”), for legal adjudication:

“Whether the action of the (1) The Occupier/Factory Manager of M/s Himachal Baspa Power Company Ltd., Karchum Wangtu & Baspa-II Hydro Electric Project, Shoultu Colony, P.O. Tapri, Tehsil Nichar, District Kinnaur (2) The Occupier/ Factory Manager M/s JP Karcham Hydro Corporation Ltd., Tapri, District Kinnaur, H.P. to retire the services of Sh. Avdhesh Partap Singh, s/o Sh. Rudra Partap Singh, near Aman Public School Utri, Kaurandia Sidhi, Tehsil Gopadbanaas, District Sidhi, Madhya Pradesh-486661 w.e.f. 31-08-2021 is legal and justified? If not, what relief including reinstatement of service, seniority, back wages, others consequential service benefits and compensation the above aggrieved workman is entitled to from the above stated Employers/ Management?”

2. The case of the petitioner as it emerges from the statement of claim is that the petitioner was engaged as security Inspector/ Guard by the respondent’s w.e.f. 01-07-2006 and worked as such till 31-08-2018 and petitioner was forcefully retired from the job w.e.f. 31-08-2021

on attaining the age of 54 years in place of 60 years. It is submitted that prior to this, the petitioner was working at place Vishakhapatnam *w.e.f.* 16-04-1983 and thereafter he was transferred and posted in Himachal Pradesh at Chamba Power Plant of JP National Hydro Corporation Limited Jakhari. The petitioner was also sent to Bagdad on 09-02-1985 and he remain there for 17 months 13 days and thereafter he was asked to join the duty *w.e.f.* 21-08-1996 at Khandwa and worked as such up to February, 2006 and thereafter he was again ask to join his duty at Kinnaur *w.e.f.* 15-02-2006. The petitioner have been illegally retired by the respondents *w.e.f.* 31-08-2021 and respondent company has not complied the mandatory provisions of the Model Standing Orders of the State government as well as mandatory provisions of Industrial Disputes Act, 1947 which is totally illegal in the eyes of law. It is submitted that the work and conduct of the petitioner always remained up to mark and nothing contrary was every conveyed to the petitioner and he always discharged his duties sincerely and honestly. It is further submitted that the petitioner has already completed more than 240 days in each calendar year and he has been retired on attaining the age of 54 years in place of 60 years as per model standing of the state government which is applicable on the respondents. Not only this other similar situated persons are still working with the respondents whereas the petitioner has been forcefully retired from the service which is clear cut violation of article 14 of Constitution of India. It is submitted that after forceful retirement of the petitioner, respondents have also engaged new persons as such the respondents have violated the section 25-G and 25-H of the Act. It is submitted that the petitioner is a workman as defined under the Act, as the petitioner used to work manually with the company and no one is working under the petitioner. It is further submitted that after the forceful retirement of the services of the petitioner by the respondent, petitioner visited the office of the respondents number of times and requested to re-engage him on the same post but the concerned official showed their inability to do so due to which the petitioner was left with no other option except to challenge his forceful retirement on attaining the age of 54 years by way of filing the demand notice before the Labour Officer-*cum*-Conciliation Officer, Kinnaur, H.P. Due to illegal retirement of the petitioner the entire family of the petitioner is at the verge of starvation as the petitioner is out of job and no other family member is in Government/ Private Job. It is submitted that the work which was being performed by the petitioner is still available and the same is being performed through contractor and new persons, whereas the services of the petitioner has been illegally terminated which is totally illegal and against the principles of natural justice and also against the principle of “last come first go” as at the time of forceful retirement of the services of the petitioner the junior persons to the petitioner were working who are still working with the company. It is submitted that the petitioner is unemployed. The petitioner is forcefully retired from the job without any sufficient reason and cause and without following the proper procedure of law. It is submitted that the petitioner is unemployed *w.e.f.* 31-08-2021 and is bearing his day-to-day expenses by borrowing the money from his relative and friends. Not only this, the petitioner never refused to perform his duties with the respondents and it is the respondents who have stopped/ restrained the petitioner from performing his duty. The petitioner thereafter prayed that the forceful retirement order dated 31-08-2021 passed by the respondent company be set aside and petitioner be reinstated in services *w.e.f.* 31-08-2021 with all consequential service benefit such as continuity, full back wages and other service benefits. The respondent be also directed to pay the damages to the petitioner to the tune of Rs. 2,00,000/- and respondent also be burdened with the cost of litigation amounting to Rs. 25,000/-.

3. On notice, the respondents appeared and filed the reply.

4. The claim petition was contested by the respondents by taking preliminary objections qua maintainability, concealment of material facts and not approaching the Court with clean hands etc. On merits, it is submitted that the petitioner had joined the service on 01-07-2006 as a temporary work charge (SSC Inspector) with Jaypee Karcham Hydro Corporation Limited Karcham Wangtoo Hydro Electric Project. It is further submitted that at the time of appointment of the petitioner with Jaypee Karcham Hydro Corporation Limited Karcham Wangtoo Hydro Electric Project, petitioner had submitted and duly signed the application form on 01-07-2006 and he has further submitted his date of birth as 06-01-1960. The petitioner was absorbed by Jaypee Karcham Hydro Corporation Limited Karcham Wangtoo Hydro Electric Project as regular employee in Grade N-11 at Karcham Wangtoo Hydro Project *w.e.f.* 01-06-2009. It is submitted that in terms of scheme of arrangement which was sanctioned by the Hon'ble High Court of H.P. in company petition no. 6/2015, the services of the petitioner were brought on the roll of Himachal Baspal Power Corporation Limited *w.e.f.* 01-07-2015. It is further submitted that in the service record as well as details provided by the petitioner, his date of birth has been recorded and written and duly verified and signed by him as 06-01-1960. It is denied by the respondents that the petitioner has been retired prior in time and not on attaining the age of superannuation *i.e.* 58 years. It is submitted that the petitioner was working at Vishakhapatnam and thereafter he was transferred to Chamba and then having being sent to Bagdhad and then to Khandwa. It is denied that the work and conduct of the petitioner was up to the mark. It is submitted that the petitioner had submitted his date of birth as 06-01-1960 at the time of his appointment in the application form which was duly submitted and signed by him. It is further submitted that the petitioner was superannuated on 31-08-2018 on attaining the age of 58 years. It is denied that the petitioner was forcibly retired. It is submitted that the workers who are falling in the category of the petitioner *i.e.* Security Guards are being superannuated on attaining the age of superannuation *i.e.* 58 years. The age of superannuation of the petitioner has clearly been put down as 58 years. It is submitted that there has been no violation of Article 14 of the Constitution of India and there is also no violation of Section 25-F, G & H of the Act or of the standing orders. It is further submitted that the petitioner being a workman need not reply, but the demand notice issued under Section 2-A of the Act is neither competent nor maintainable, as the petitioner was neither retrenched, dismissed, terminated or discharged but he was superannuated on attaining the age of 58 years. The petitioner if had any grievance, he should have raised the demand notice under Section 2-K of the Act through the Union or through the group of workers. It is submitted that the claim petition is barred in law being per-se illegal, bad in law and deserves to be dismissed. It is submitted that the petitioner has rightly been superannuated on attaining the age of 58 years on 31-08-2018 as per service record. It is submitted that the petitioner himself has written down the date of birth at the time of his appointment as 06-01-1960 and had not raised any dispute/ issue qua the date of birth being 06-01-1964 before the superannuation on 31-08-2018. It is further submitted that as per law laid down by Hon'ble Apex Court and various High Courts, the mistake in the date of birth has to be brought to the notice of the employer immediately and the employees cannot raise issue of the date of birth at the end of his service career and on his superannuation. It is submitted that the petitioner was given entire benefits amounting to Rs. 63,080/- upon his superannuation. In view of the above submissions, the respondents have prayed that the petition be dismissed.

5. Thereafter, petitioner filed the rejoinder to the reply, whereby petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

6. From the pleadings of the parties, the following issues were settled for determination and adjudication by this Court, *vide* order dated 17-10-2022.

3. Whether the action of the respondent to retire the services of petitioner *w.e.f.* 31-08-2021, is illegal and unjustified? If yes, what relief the petitioner is entitled to?

.. *OPP.*

4. Whether the claim petition is neither competent nor maintainable in the present form, as alleged?

.. *OPR.*

5. Relief

7. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

8. Arguments of the learned Counsel for the petitioner and respondent were heard and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues, my findings thereon are as under:

Issue No. 1 : No, not entitled to any relief.

Issue No. 2 : No

Relief : Reference answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO. 1

10. Before proceeding further it is pertinent to note that the reference received by this Court in this case mentions the alleged date of retirement as 31-08-2021 whereas the same is 31-08-2018 as per the version of parties as well as, as per the documents led by both the parties in the evidence. Thus, the alleged date of retirement of the petitioner is read as 31-08-2018 instead of 31-08-2021 in the reference. It is further pertinent to mention that the issue framed by this Court also mentions the alleged date of retirement as 31-08-2021 which is read as 31-08-2018 for the purpose of answering the reference.

11. To substantiate his case, the petitioner namely Shri Avdesh Pratap Singh, has appeared in the witness box as (PW-1) and has tendered in evidence his affidavit Ex. PW-1/A, wherein he has reiterated and reaffirmed the entire contents of the claim petition. He has also tendered in evidence employee ID card Ex. PW-1/B, Aadhar Card Ex. PW-1/C, pan card Ex. PW-1/D, election card Ex. PW-1/E, demand notice Ex. PW-1/F, mark sheet higher secondary education mark-PX-1, mark sheet higher education mark-PX-2 and PF statement mark-PX-3 to mark-PX-6.

11. During cross-examination, he has stated that he was engaged at the time when the respondent management was looked after by J.P. Hydro Company. He has denied that on

01-07-2006 at the time of his engagement he filled employment form which bears his signature. He has stated that signature belongs to him. He denied that in the said form he gave his date of birth as 06-01-1960. He has admitted that the address was rightly recorded. He has volunteered that the form was not filled by him. He has denied that he has also recorded his date of birth as 06.01.1960 in the nominee form. He has admitted his signatures in the nominee form. Volunteered that both in employment form as well as nominee form he has mentioned his date of birth year as 1964. He has denied that the respondent has intimated him *vide* letter dated 10-08-2018 regarding his date of superannuation. He has denied that he was issued letters 07-08-2018 and 24-08-2018. He has admitted that the full and final amount was paid to him. He has denied that he never raised any dispute regarding his age prior to his retirement. He has denied that no such document has been placed by him. He has admitted that he was retired on 31-08-2018. Volunteered that he was forcibly superannuated without being afforded any opportunity to lead his case. He has admitted that he has never raised any demand notice except Ex. PW-1/F. Volunteered that he has filled up an application before Sh. Rajender Kumar, Manager HR regarding correction of date of birth. He has admitted that he has not placed on record any such application. He has denied that he has never produced any educational certificate at the time of his employment with Jaypee. He has denied that mark-PX-3 to mark-PX-6 does not pertain to the company and it does not bear any signatures and stamp. Volunteered that these documents were supplied by him. He has denied that he was withdrawn his PF after retirement. He has admitted that the amount of gratuity was credited in his account after retirement.

12. In order to rebut the case of the petitioner, Sh. Sanjeev Kumar, Senior Manager Industrial Relations, JSW Hydro Energy Limited Shoultu, has stepped into witness box as RW-1 and has tendered in evidence his affidavit Ex. RW-1/A, wherein he has reiterated and reaffirmed the contents of the reply. He has also tendered copy of board resolution mark-RX, authority letter Ex. RW-1/B, application form mark-RX-1 (4 leaves), nominee form mark-RX-2, reply to demand notice mark-RX-3 (3 leaves), letter dated 10-08-2018 mark-RX-4, letter dated 24-08-2018 mark-RX-5, letter dated 07-08-2018 mark-RX-6, service certificate dated 27-08-2018 mark-RX-7, letter dated 31-08-2018 mark-RX-8 and employees PF details mark-RX-9.

13. During cross-examination, he has admitted that the petitioner was a security guard with Jaypee form *w.e.f.* 01-07-2006. Self stated that when Jindal Group took over all the assets along with the employees on dated 01-07-2015 as per High Court Orders. He has expressed his ignorance that the petitioner was employed with Jay Prakash Associates since 16-04-1983 at Vishakhapatnam. Self stated that they have no such evidence in their record. He has expressed his ignorance that the petitioner was sent to Bagdhad by their predecessor. He has denied that the petitioner was forcibly retired on 31-08-2018 at the age of 54 years. He has admitted that at Karcham Plant they have model standing orders. He has stated that he does not know that as per model standing orders of the State of H.P. the retirement is 60 years. He has stated that as per company policy when any person was appointed, the company issues appointment letter along with terms and conditions. He has admitted that in the appointment letter of the petitioner retirement age is not mention. He has volunteered that in their record there is no such appointment letter. He has stated that he is not aware that when the retirement age is not mentioned in the appointment letter in that eventuality the age mentioned in the model standing orders will operate. He has admitted that there is no document on record pertaining to date of birth of the petitioner. He has stated that the

application/ nominee form provided by the petitioner mentions his date of birth as 06.01.1960. He has stated that in general when the appointment is made by the department date of birth certificate or educational qualification certificate is obtained. Self stated that in the instant case they have not appointed the petitioner and he is brought on the roll of the respondent on the scheme of the merger sanctioned by Hon'ble High Court. He has stated that when Jindal Group took the assets the complete record of the employees were not provided to them. He has stated that he cannot produce on record any letter on the basis of which they have asked Jaypee Group to provide the record. He has admitted that when any employee is appointed, his identity card is issued by the company. He cannot say that the identity card Ex. PW-1/B was issued to the petitioner by their predecessor. He has stated that the certificate mark-PX-1 was never provided to them. He has denied that despite the receipt of the document from the petitioner they have forcibly retired the petitioner at the age of 54 years. He has stated that the company has retired the petitioner on the basis of application form and nomination form as filled by the petitioner. He has stated that he has not aware about any proceeding and documents provided by the petitioner regarding his age.

14. This is the entire oral and documentary evidence led by the parties.

15. It is argued by learned counsel for the petitioner that he has submitted his documents qua educational qualification to the respondent management at the time of his engagement wherein his date of birth is mentioned as 06-01-1964. It is submitted that he has never mentioned his date of birth year as 1960 at the time of his engagement. It is submitted that his actual date of birth is 06-01-1964, which is so recorded in his documents pertaining to education qualification and Employee I Card. It is submitted that the petitioner has remained successful in establishing his case by proving his actual date of birth from the higher secondary school certificate. It is submitted that the respondents have forcibly retired him prior to attaining the age of superannuation which is illegal and unjustified.

16. On the other hand, it is argued by learned counsel for the respondents that at the time of engagement *i.e.* in the year 2006, the petitioner has filled up his Employment and Nominee form wherein he has mentioned his date of birth as 06-01-1960. It is submitted that the petitioner has himself declared his date of birth at the time of his appointment and which is so entered in his service record with the management and now he cannot be permitted at the fag of his service career to raise a dispute as regards the correctness of the entries in the service record with the management.

17. In the case in hand, the petitioner has raised the dispute that his services were illegally discontinued by the respondents *w.e.f.* 31-08-2018 by way of forceful retirement. The contention of the petitioner is that he has not attained the age of superannuation whereas he was forcefully retired from the services when he was 54 years old in the year 2018. The petitioner has contended that after forceful retirement of his services by the respondent company, he visited the office of the company time and again and requested to re-engage him on the same post, however the officials of the company did not pay any heed to his request. It is contended that he never filled any Employment form or Nominee form at the time of his engagement with the company in the year 2006. As per petitioner, his date of birth is wrongly recorded in the company record however the identity card Ex. PW-1/B issued by the company in his favour reflects his correct date of birth *i.e.*

06-01-1964. At the same time, when the evidence of the petitioner is perused it is revealed there from that the signatures over the Employment form or Nominee form submitted at the time of the engagement of the petitioner with the company, has nowhere been disputed by the petitioner. In this regard, the petitioner has clearly admitted that the Employment form as well as Nominee form bears his signatures. Although, the petitioner has stated in his evidence that the contents of the Employment form or Nominee form have never been filled by him however, he has admitted the signatures appearing therein. It is not the case of the petitioner that he is illiterate and does not know reading and writing. Contrarily, it can be collected from the evidence that the petitioner has been earlier working with the company at various places in India and thus had vast experience and knowledge. It cannot be comprehended that the petitioner was never in the knowledge of his date of birth which was recorded in the Employment form or Nominee form with the company. It is not in dispute that the Employment form or Nominee form are required to be filled at the time of the engagement of the workman with the company. Also the version of the petitioner is that the same bears his signature clearly indicates that the same were filled at the time of his engagement with the company. It is contended by the petitioner that at the time of filing of the Employment form or Nominee form he has mentioned his date of birth year as 1964 and not as 1960. But the said contention of the petitioner is falsified in view of the contents of Employment form mark-RX-1 and Nominee form mark-RX-2 wherein the signatures have been admitted by the petitioner. Now, it does not lie in the mouth of the petitioner to say that he has never mentioned his date of birth in the record at the time of his engagement with the company.

18. This apart, it has no where appeared in the petitioner's evidence that he has ever approached the management for making the correction in his date of birth in the service record at any point of time. It appears that the petitioner has tried to establish his ignorance as to date of birth available with the respondent and has pleaded that he was arbitrarily and unlawfully retired by the management at the age of 54 years and further that new persons have been engaged by the company. It appears that the petitioner has tried to show that he had no knowledge as to date of birth available with the respondent *i.e.* 06-01-1960. However, this contention of the petitioner cannot also be accepted by this Court, in view of discussion made in para supra. It appears that the petitioner has very cleverly withheld his knowledge as to his date of birth recorded in the service record. The petitioner has denied that he has never raised any dispute prior to this retirement regarding his age. However, the petitioner is unable to produce and prove on record the said contention. No document/ letter/ communication has been led on record in order to show that the petitioner has ever agitated the age recorded in the service record/ document with the company. Interestingly, he admits that he has never raised any demand notice except Ex. PW-1/F which is dated 01-10-2018. Thus, it is clear from the evidence that the alleged incorrect recording of the age of the petitioner was never questioned or agitated by the petitioner at the earliest of his engagement or before his retirement *i.e.* on 31-08-2018.

19. It is argued on behalf of the petitioner that his educational certificate *i.e.* matriculation certificate mark-PX-2 mentions his date of birth as 06.01.1964 which was also submitted by him to the company at the time of his engagement. It is argued that the respondent has deliberately withheld and not produced the said document before the Court. On the other hand, it is the version of the respondent that petitioner was engaged as security guard with Jaypee Firm *w.e.f.* 01-07-2006 and the respondent JSW took over all the assets alongwith employees on 01-07-2015 as per orders

of the Hon'ble High Court of H.P. on the scheme of merger. It is the version of the respondent that at the time of taking over the assets by JSW, the complete record of the employees were not provided by the Jaypee Firm to the respondent. The respondent has expressed its ignorance regarding the I-Card Ex. PW-1/B, which is claimed have been issued by the predecessor of the respondent in favour of the petitioner. The RW-1 has clearly deposed that certificate mark-PX-2 was never provided to the respondent company at any point of time.

20. The matter remains that although there is mention of the educational qualification of the petitioner in the Employment form which was submitted by the petitioner at the time of his engagement with the predecessor of the respondent however no such certificate is attached with the said form or to say that no such certificate was available with the respondent at the time of considering the retirement of the petitioner. For the sake of arguments, if the version of petitioner that his date of birth was wrongly mentioned in the Employment form which is in fact 06-01-1964 as per his matriculation certificate, is believed even then the petitioner has failed to prove the said fact on record. The record reveals that the original certificate was never produced in the Court during the evidence. The certificate mark-PX-2 has not been proved on record in accordance with law. The issue regarding date of birth of the petitioner could have been proved by the petitioner by the proving the same from the certificate, either birth certificate or the equivalent. Again stated that the petitioner has failed to establish his contention regarding his date of birth as 06-01-1964. In so far as the I-card Ex. PW-1/B is concerned, the respondent has denied to issue the same in favour of the petitioner. It is the predecessor of the respondent who appears to have issued the said I-card in favour of the petitioner. The fact remains that the basis of issuance of said I-card *i.e.* document tendered at the time of engagement, itself reveals the date of birth of the petitioner as 06-01-1960. In this background, where the basis of issuance of the I-card Ex. PW-1/B shows the date of birth as 06-01-1960, the same cannot be considered against the respondent.

21. Admittedly, the petitioner has never represented to the respondent regarding his incorrect date of birth mentioned in the Employment form or Nomination form. The petitioner has for the first time disputed his date of birth *vide* demand notice Ex. PW-1/F. Although, as per petitioner he has made an application before Manager HR regarding correction of his date of birth however no such application has been placed and proved on record by the petitioner.

22. Hon'ble Apex Court in catena of decisions has held that request for change of date of birth in service record at the fag of service career is not sustainable. In **State of Tamil Nadu Versus T.V. Venugopalan reported (1994) 6 SCC 302**, the Hon'ble Apex Court was clearly of the opinion that the government servant should not be permitted to correct the date of birth at the fag end of his service career. The Court, in very strong terms, observed as under:—

“.....The government servant having declared his date of birth as entered in the service register to be correct would not be permitted at the fag end of his service career to raise a dispute as regards the correctness of the entries in the service register”

23. The Hon'ble High Court of Jharkhand while dealing with the similar issue in case of **Manik Chand Ghosh Vs. Bharat Coking Coal Ltd., reported in (2004) 1 JCR 1 (Jhr.)** held that,

date of birth once recorded and entered in the service record, countersigned by the Government servant, the same cannot be permitted to challenge by the petitioner at the fag end of his service. Further, the Hon'ble Apex Court reiterating the same view, in case of *State of M.P. v. Premlal Shrivastava*, reported in (2011) 9 SCC 664 has held as under:—

"8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleep over their rights. 12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex facie fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the time-limit within which an application is to be filed, the appellants were duty-bound to correct the clerical error in recording of his date of birth in the service book."

24. Thus, in the facts and circumstances of the case and in the light of what has been held by Hon'ble Apex Court and also in view of the discussion held above the petitioner has failed to prove that the action of the respondent to retire his services w.e.f. 31-08-2018 is illegal and unjustified. The issue is accordingly decided.

ISSUE NO. 2

25. So far as issue no. 2 is concerned, the respondents have not led any evidence to establish on record that as to how the present claim petition is not maintainable. I find nothing wrong with this petition which is perfectly maintainable in the present form. The issue in question is answered in negative.

RELIEF.

26. In view of my findings on issues no. 1 & 2, above, the claim filed by the petitioner fails and is hereby dismissed by holding that the petitioner is not entitled to any relief as claimed. The reference is answered in negative. Let a copy of this award be communicated to the appropriate Government for publication in the official gazette. The file after due completion be tagged with the main case file.

Announced in the open Court today on this 30th day of July, 2026.

Sd/-
(PREETI THAKUR),
Presiding Judge, Industrial Tribunal-cum-
Labour Court, Shimla (H.P.).

परिवहन विभाग

अधिसूचना

शिमला-2, 22 अगस्त, 2026

संख्या: टी.पी.टी-ए(3)-1/2023.—हिमाचल प्रदेश के राज्यपाल, मोटर यान अधिनियम, 1988 (1988 का केन्द्रीय अधिनियम का संख्यांक 59) की धारा 96 के साथ पठित धारा 212 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस विभाग की अधिसूचना संख्या 5-24/88 टी०पी०टी०-पार्ट-III, तारीख 12 जुलाई, 1999 द्वारा अधिसूचित और राजपत्र (असाधारण), हिमाचल प्रदेश में तारीख 27 जुलाई, 1999 को प्रकाशित हिमाचल प्रदेश मोटर यान नियम, 1999 का और संशोधन करने के लिए निम्नलिखित नियम का प्रस्ताव करते हैं और उन्हें संभाव्य प्रभावित होने वाले जन साधारण की सूचना के लिए राजपत्र (ई-गजट), हिमाचल प्रदेश में एतद्वारा प्रकाशित किया जाता है;

इन प्रारूप नियमों द्वारा संभाव्य प्रभावित होने वाले किसी व्यक्ति को यदि इन नियमों की बाबत कोई आक्षेप या सुझाव है/हैं तो वह/वे लिखित में आक्षेप (आक्षेपों) या सुझाव (सुझावों) को उक्त प्रारूप नियमों के राजपत्र (ई-गजट), हिमाचल प्रदेश में प्रकाशन की तारीख से तीस दिन की अवधि के भीतर अतिरिक्त मुख्य सचिव (परिवहन), हिमाचल प्रदेश सरकार को भेज सकेगा/सकेंगे।

उपरोक्त नियत अवधि के भीतर प्राप्त आक्षेप या सुझाव, यदि कोई हो/हों पर उक्त प्रारूप नियमों को अंतिम रूप देने से पूर्व हिमाचल प्रदेश सरकार द्वारा विचार किया जाएगा, अर्थात:-

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश मोटर यान (द्वितीय संशोधन) नियम, 2026 है।

(2) ये नियम राजपत्र (ई-गजट), हिमाचल प्रदेश में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. नियम 2 का संशोधन.—हिमाचल प्रदेश मोटर यान नियम, 1999 (जिन्हें इसमें इसके पश्चात् "उक्त नियम" कहा गया है) के नियम 2 के उप-नियम (1) के खंड (ढ) के पश्चात् निम्नलिखित खंड अन्तः स्थापित किया जाएगा, अर्थात् :-

"(ण) "यान फ्लीट" से एकल रजिस्ट्रीकृत स्वामी के नाम पर रजिस्ट्रीकृत, एक ही प्रवर्ग और प्रकृति के दो या दो से अधिक मोटर वाहनों का समूह अभिप्रेत है, और जो नामनिर्दिष्ट या परिचालन

मार्ग पर संचालित किए जाने के लिए आशयित हो। यह वर्गीकरण मंजिली गाड़ी, संविदा गाड़ी या ऐसी किसी अन्य परिवहन श्रेणी के यानों पर लागू होगा, जिन्हें अधिसूचित किया जाए।”।

3. नियम 73 का संशोधन.—“उक्त नियमों” के नियम 73 में, “मंजिली गाड़ी या संविदा गाड़ी के अनुज्ञापन का धारक ऐसे यान पर उस राज्य में उद्गृहित सभी करों की अदायगी करेगा” वाक्य के पश्चात् निम्नलिखित उपबंध अंतःस्थापित किया जाएगा;

“ऐसे पलीट का भाग के रूप में प्रत्येक यान के लिए कर दायित्व की अवधारणा वास्तव में संचालित मार्ग की लंबाई और अभिनियोजित विनिर्दिष्ट यान की सीट क्षमता के आधार पर किया जाएगा।”।

आदेश द्वारा,

हस्ताक्षरित/—
(ओंकार चन्द शर्मा),
अतिरिक्त मुख्य सचिव (परिवहन)।

[Authoritative English text of this Department Notification No. TPT-A(3)-1/2023 dated 22-08-2026 as required under clause (3) of article 348 of the Constitution of India].

TRANSPORT DEPARTMENT

NOTIFICATION

Shimla-2, the 22nd August, 2026

No. TPT-A(3)-1/2023.—In exercise of the powers conferred by sub-section (1) of section 212 read with section 96 of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988), the Governor, Himachal Pradesh proposes to amend the Himachal Pradesh Motor Vehicles Rules, 1999, notified *vide* this department Notification No. 5-24/88-Tpt-III, dated 12th July, 1999 and published in Rajpatra, Himachal Pradesh (Extra-Ordinary) dated 27th July, 1999 and the same are hereby published in Rajpatra (e-Gazette), Himachal Pradesh for information of the general public likely to be affected thereby;

If any person likely to be affected by these rules, has any objection(s) or suggestion(s) to make with regard to these rules, he may send the written objection (s) or suggestion(s) to the Additional Chief Secretary (Transport) to the Government of Himachal Pradesh, Armsdale Building, Shimla-2 within a period of thirty days from the date of publication of the said draft rules in the Rajpatra (e-Gazette), Himachal Pradesh;

Objection(s) or suggestion(s), if any, received within the stipulated period, shall be considered by the Government of Himachal Pradesh, before finalizing the draft rules, namely :—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Motor Vehicle (Second Amendment) Rules, 2026.

(2) These rules shall come into force from the date of publication in Rajpatra (e-Gazette), Himachal Pradesh.

2. Amendment of rule 2.—In rule 2 of the Himachal Pradesh Motor Vehicles Rules, 1999, (hereinafter referred to as the 'said rules') sub-rule (1) after clause (n), the following clause shall be inserted, namely :—

(o) "Vehicle Fleet" means a group of two or more motor vehicles of the same category and nature, registered in the name of a single registered owner, and intended to operate on designated or operational route. This classification shall apply to stage carriages, contract carriages, or any other transport category vehicles as may be notified."

3. Amendment of rule 73.—In rule 73 of the 'said rules', after the sentence: "The holder of a stage carriage or a contract carriage Permit shall pay all the taxes leviable in the State on such vehicles." the following provision shall be inserted;

"the tax liability for each vehicle forming part of such a fleet shall be determined on the basis of the route length actually operated and the seat capacity of the specific vehicles deployed in service."

By order,

Sd/-
(ONKAR CHAND SHARMA),
Additional Chief Secretary (Transport).

SPECIAL AREA DEVELOPMENT AUTHORITY BHARMOUR

NOTICE OF PUBLICATION OF DRAFT DEVELOPMENT PLAN

Dated the 2nd September, 2026

SDTP(C)/SADA-Bharmour/Vol-IV/2024/-531-59.—In exercise of the powers vested under sub-section (1) of Section 19 of the Himachal Pradesh Town & Country Planning Act, 1977 (Act No. 12 of 1977), the Draft Development Plan prepared for **Bharmour Special Area**, under section 70 of the Himachal Pradesh Town & Country Planning Act, 1977 (Act No. 12 of 1977), is hereby published and the Notice is given that a copy of the said Draft Development Plan is available for inspection during the office hours in the following offices:—

1. Member Secretary SADA Bharmour,
Cum- Sub - Divisional Officer (Civil)
Tehsil Bharmour District Chamba.
2. Member-*cum*-Assistant Town Planner,
Sub-Divisional Town Planning Office Chamba.

The particular of the said Draft Development Plan have been specified in the Schedule below.

If there be any objection or suggestion with respect to the said Draft Development Plan, it should be sent in writing to the Chairman, Special Area Development Authority Bharmour-*cum*-

Deputy Commissioner Chamba, District Chamba (H.P.) within thirty days from the date of publication of this Notice in the Official Gazette of Himachal Pradesh.

SCHEDULE

1. The existing Land Use Maps
2. A narrative report, supported by maps & charts explaining the provision of the Draft Development Plan.
3. The phasing of implementation of the Draft Development Plan as suggested by the Chairman Special Area Development Authority Bharmour-cum-Deputy Commissioner Chamba.
4. The provision for enforcing the Draft Development Plan & stating the manner in which permission for development may be obtained.

Place: Chamba

*Chairman,
Special Area Development Authority,
Bharmour-cum-Deputy Commissioner,
Chamba Distt. Chamba (H.P.)*

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा (हि0प्र0)**

मिसल नम्बर : तहसील/रीडर/2023

तारीख पेशी : 20-09-2026

मचलू पुत्र सरवन, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0) ।

बनाम

आम जनता एवं ग्राम पंचायत मंगला, विकास खण्ड मैहला ।

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा ।

इस अदालत में उपमण्डलाधिकारी ना0 चम्बा के कार्यालय पृष्ठांकन संख्या 2026/6003 दिनांक 29-07-2026 के माध्यम से प्राप्त दस्तावेज क्रमशः 1. जिला पंजीकरण जन्म एवं मृत्यु मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या—HFW-B&D/CMO-CBA/2026-23151, दिनांक 29-07-2026 शपथ-पत्र, अप्राप्यता प्रमाण-पत्र। जिसमें प्रार्थी रिकू कुमार पुत्र चैन लाल, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0) के दादा नामक मचलू की मृत्यु दिनांक (21-06-2000) किन्हीं कारणों से ग्राम पंचायत मंगला विकास खंड मैहला के कार्यालय अभिलेख में दर्ज न हुई है, जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसके दादा की मृत्यु तिथि को ग्राम पंचायत मंगला विकास खंड मैहला के जन्म/मृत्यु रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी रिकू कुमार पुत्र चैन लाल, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0) के उसके दादा नामक मचलू की मृत्यु दिनांक 21-06-2000 को ग्राम पंचायत मंगला विकास खंड मैहला के जन्म/मृत्यु अभिलेख में

दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के दादा नामक मचलू की मृत्यु दिनांक 21-06-2000 दर्ज/पंजीकृत करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जायेंगे।

आज दिनांक 20-08-2026 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा (हि0प्र0)

मिसल नम्बर : तहसील/रीडर/2023

तारीख पेशी : 20-09-2026

नारो विधवा सरवन, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0)।

बनाम

आम जनता एवं ग्राम पंचायत मंगला, विकास खण्ड मैहला।

विषय.— जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उपमण्डलाधिकारी ना0 चम्बा के कार्यालय पृष्ठांकन संख्या 2026/6003 दिनांक 29-07-2026 के माध्यम से प्राप्त दस्तावेज क्रमशः 1. जिला पंजीकरण जन्म एवं मृत्यु मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या-HFW-B&D/CMO-CBA/2026-23152, दिनांक 29-07-2026 शपथ-पत्र, अप्राप्यता प्रमाण-पत्र। जिसमें प्रार्थी रिकू कुमार पुत्र चैन लाल, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0) की पड़दादी नामक नारो की मृत्यु दिनांक 20-08-1993 किन्हीं कारणों से ग्राम पंचायत मंगला विकास खंड मैहला के कार्यालय अभिलेख में दर्ज न हुई है, जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी पड़दादी की मृत्यु तिथि को ग्राम पंचायत मंगला विकास खंड मैहला के जन्म/मृत्यु रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी रिकू कुमार पुत्र चैन लाल, निवासी गांव/मुहल्ला मंगला परगना साच, तहसील व जिला चम्बा (हि0प्र0) की पड़दादी नामक नारो की मृत्यु दिनांक 20-08-1993 को ग्राम पंचायत मंगला विकास खंड मैहला के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की पड़दादी नामक नारो की मृत्यु दिनांक 20-08-1993 दर्ज/पंजीकृत आदेश सम्बन्धित स्थानीय रजिस्ट्रार जन्म एवं मृत्यु को पारित कर दिये जायेंगे।

आज दिनांक 20-08-2026 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत श्री अभिराय सिंह ठाकुर, तहसीलदार एवं कार्यकारी मैजिस्ट्रेट, सलूणी,
जिला चम्बा, हिमाचल प्रदेश**

श्रीमती सुमित्रा देवी पुत्री श्री रिझु, निवासी गांव सिंगा, परगना मंजीर, तहसील सलूणी, जिला चम्बा
(हि0प्र0) वादिया।

बनाम

आम जनता

प्रतिवादी।

उनवान मुकद्दमा.—जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के अन्तर्गत विलम्बित
जन्म/मृत्यु पंजीकरण करने बारे।

श्रीमती सुमित्रा देवी पुत्री श्री रिझु, निवासी गांव सिंगा, परगना मंजीर, तहसील सलूणी, जिला चम्बा
(हि0प्र0) ने इस न्यायालय में प्रार्थना-पत्र गुजार कर निवेदन किया है कि उनका जन्म दिनांक 01-01-1973
को गांव सिंगा, ग्राम पंचायत सिंगाधार, तहसील सलूणी, जिला चम्बा, हिमाचल प्रदेश में हुआ था लेकिन
अज्ञानतावश वे अपने जन्म का पंजीकरण ग्राम पंचायत सिंगाधार, तहसील सलूणी, जिला चम्बा के जन्म एवं
मृत्यु रजिस्टर में दर्ज नहीं करवा सके। अतः ग्राम पंचायत सिंगाधार के जन्म एवं मृत्यु रजिस्टर में उनके जन्म
का विलम्बित पंजीकरण करने के आदेश पारित किए जाएं।

अतः उपरोक्त जन्म पंजीकरण बारे सर्वसाधारण व आम जनता को इस राजपत्र इश्तहार व मुनादी
द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त जन्म पंजीकरण बारे कोई उजर/एतराज है तो
उजरकर्ता दिनांक 22-09-2026 को प्रातः 10.00 बजे इस मुकद्दमा की पैरवी हेतु व्यक्तिगत रूप से अथवा
किसी अधिकृत एजेंट के माध्यम से या किसी अधिवक्ता के माध्यम से इस न्यायालय में उपस्थित होकर उजर
पेश कर सकता है। गैर-हाजिरी की सूरत में मुताबिक प्रार्थना-पत्र जन्म पंजीकरण करने हेतु आदेश पारित
कर दिये जाएंगे एवं तारीख पेशी अर्थात् 22-09-2026 के बाद कोई भी उजर/एतराज विचारणीय न होगा।

आज दिनांक 28-03-2026 को मेरे हस्ताक्षर व मोहर न्यायालय द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित /—
तहसीलदार एवं कार्यकारी मैजिस्ट्रेट,
सलूणी, जिला चम्बा (हि0प्र0)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी एवं तहसीलदार, कांगड़ा, तहसील व जिला कांगड़ा (हि0प्र0)

संजना देवी

बनाम

आम जनता

उपरोक्त संजना देवी पत्नी विजय कुमार निवासी महाल तियारा द्वारा अधोहस्ताक्षरी के समक्ष नाम
दुरुस्ती हेतु प्रार्थना-पत्र के साथ शपथ-पत्र प्रस्तुत किया है। प्रार्थिया द्वारा आग्रह किया गया है कि उसके
बेटे का नाम आधार कार्ड में baby one of Sanjna दर्ज है जो कि गलत है। जबकि प्रार्थिया अपने बेटे का
नाम आधार कार्ड में दर्ज करवाना चाहती है। अतः प्रार्थिया द्वारा प्रस्तुत किए गए दस्तावेज, शपथ-पत्र को
मध्यनजर रखते हुए प्रार्थिया के बेटे का नाम नक्श (Naksh) दर्ज किया जाना वाजिब है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि राजस्व रिकार्ड में नाम दुरुस्त
करवाने बारे किसी को कोई एतराज हो तो वह उपनाम एतराज दिनांक 23-09-2026 को सम्बन्धित हाजिर

आकर अपना एतराज प्रस्तुत कर सकते हैं। निर्धारित अवधि तक एतराज प्राप्त न होने पर नियमानुसार कार्यवाही अमल में लाई जाएगी।

आज दिनांक 20-08-2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी, एवं तहसीलदार कांगड़ा,
तहसील व जिला कांगड़ा (हि0प्र0)।

**In the Court of Sh. Dwij Goel, IAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Paonta Sahib, District Sirmaur, Himachal Pradesh-173 025**

In the matter of :

1. Sh. Asif Khan s/o Sh. Mohammad Rasid, r/o Bhuppur (118), Tehsil Paonta Sahib, District Sirmaur (H.P.).

2. Nagma d/o Sh. Shaheed, r/o Shankarpur Rampur Kala, P.O. Rampur, District Dehradun, 248 197.

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Asif Khan s/o Sh. Mohammad Rasid, r/o Bhuppur (118), Tehsil Paonta Sahib, District Sirmaur (H.P.) and Nagma d/o Sh. Shaheed, r/o Shankarpur Rampur Kala, P.O. Rampur, District Dehradun, U.K.-248 197 have filed an application alongwith affidavits in this court under section 15 of Special Marriage Act, 1954 and stating therein that they have solemnized their marriage on 19-11-2024 and they have been living together as husband and wife ever since then. Hence notices are given to all concerned and General Public to this effect that if anybody have any objection regarding the registration of marriage duly solemnized on 19-11-2024 between Sh. Asif Khan s/o Sh. Mohammad Rasid, r/o Bhuppur (118), Tehsil Paonta Sahib, District Sirmaur (H.P.) and Nagma d/o Sh. Shaheed, r/o Shankarpur Rampur Kala, P.O. Rampur, District Dehradun, U.K.-248 197 he/she should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 29-08-2026.

Seal.

Sd/-
(DWIJ GOEL, IAS),
Marriage Officer-cum-SDM,
Paonta Sahib, District Sirmaur (H.P.).

**In the Court of Sh. Dwij Goel, IAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Paonta Sahib, District Sirmaur, Himachal Pradesh-173 025**

In the matter of :

1. Sh. Abhay Pratap Singh s/o Sh. Sushil Kumar, r/o Siau, P.O. Siau Syau, Bijnor, (U.P.)-246 725.
2. Jaswinder Kaur d/o Sh. Nirmal Singh, r/o Badripur (121), Tehsil Paonta Sahib, District Sirmaur (H.P.).

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Abhay Pratap Singh s/o Sh. Sushil Kumar, r/o Siau, P.O. Siau Syau, Bijnor, (U.P.)-246 725 and Jaswinder Kaur d/o Sh. Nirmal Singh, r/o Badripur (121), Tehsil Paonta Sahib, District Sirmaur (H.P.) has filed an application alongwith affidavits in this court under section 15 of Special Marriage Act, 1954 and stating therein that they have solemnized their marriage on 10-05-2026 and they have been living together as husband and wife ever since then. Hence notices are given to all concerned and General Public to this effect that if anybody have any objection regarding the registration of marriage duly solemnized on 10-05-2026 between Sh. Abhay Pratap Singh s/o Sh. Sushil Kumar, r/o Siau, P.O. Siau Syau, Bijnor, (U.P.)-246 725 and Jaswinder Kaur d/o Sh. Nirmal Singh, r/o Badripur (121), Tehsil Paonta Sahib, District Sirmaur (H.P.) he/she should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 29-08-2026.

Seal.

Sd/-
(DWIJ GOEL, IAS),
Marriage Officer-cum-SDM,
Paonta Sahib, District Sirmaur (H.P.).

**In the Court of Sh. Dwij Goel, IAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Paonta Sahib, District Sirmaur, Himachal Pradesh-173 025**

In the matter of :

1. Sh. Navneet Singh Saini s/o Sh. Hukam Singh Saini, r/o H. No. 230, Indira Colony, P.O. Doiwala, District Dehradun, Uttarakhand-248 140.
2. Gurjeet Kaur d/o Sh. Devinder Singh, r/o Ward No. 05, Village Brotiwala, Rampur Nawada Road, P.O. Shivpur, Tehsil Paonta Sahib, District Sirmaur (H.P.).

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Navneet Singh Saini s/o Sh. Hukam Singh Saini, r/o H. No. 230, Indira Colony, P.O. Doiwala, District Dehradun, Uttarakhand 248 140 and Gurjeet Kaur d/o Sh. Devinder Singh, r/o Ward No. 05, Village Brotiwala, Rampur Nawada Road, P.O. Shivpur, Tehsil Paonta Sahib, District Sirmaur (H.P.) has filed an application alongwith affidavits in this court under section 15 of Special Marriage Act, 1954 and stating therein that they have solemnized their marriage on 23-02-2026 and they have been living together as husband and wife ever since then. Hence notices are given to all concerned and General Public to this effect that if anybody have any objection regarding the registration of marriage duly solemnized on 23-02-2026 between Sh. Navneet Singh Saini s/o Sh. Hukam Singh Saini, r/o H. No. 230, Indira Colony, P.O. Doiwala, District Dehradun, Uttarakhand-248 140 and Gurjeet Kaur d/o Sh. Devinder Singh, r/o Ward No. 05, Village Brotiwala, Rampur Nawada Road, P.O. Shivpur, Tehsil Paonta Sahib, District Sirmaur (H.P.) he/she should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 29-08-2026.

Seal.

Sd/-
(DWIJ GOEL, IAS),
Marriage Officer-cum-SDM,
Paonta Sahib, District Sirmaur (H.P.).

**In the Court of Sh. Dwij Goel, IAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Paonta Sahib, District Sirmaur, Himachal Pradesh-173 025**

In the matter of :

1. Sh. Jayant Singh s/o Dr. Kundan Singh, r/o B2/B1, Meera Colony, B.H.U. Varanasi Uttar Pradesh-221 005.
2. Vatsala Aggarwal d/o Sh. Sanjay Kumar, r/o V.P.O. Majra (149), Tehsil Paonta Sahib, District Sirmaur (H.P.).

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Jayant Singh s/o Dr. Kundan Singh, r/o B2/B1 Meera Colony, B.H.U. Varanasi Uttar Pradesh 221 005 and Vatsala Aggarwal d/o Sh. Sanjay Kumar, r/o V.P.O. Majra (149), Tehsil Paonta Sahib, District Sirmaur (H.P.) have filed an application alongwith affidavits in this court under section 15 of Special Marriage Act, 1954 and stating therein that they have solemnized their marriage on 30-04-2026 and they have been living together as husband and wife ever since then. Hence notices are given to all concerned and General Public to this effect that if anybody have any

objection regarding the registration of marriage duly solemnized on 30-04-2026 between Sh. Jayant Singh s/o Dr. Kundan Singh, r/o B2/B1, Meera Colony, B.H.U. Varanasi Uttar Pradesh-221 005 and Vatsala Aggarwal d/o Sh. Sanjay Kumar, r/o V.P.O. Majra (149), Tehsil Paonta Sahib, District Sirmaur (H.P.) he/she should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 29-08-2026.

Seal.

Sd/-
(DWIJ GOEL, IAS),
Marriage Officer-cum-SDM,
Paonta Sahib, District Sirmaur (H.P.).

**In the Court of Sh. Dwij Goel, IAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Paonta Sahib, District Sirmaur, Himachal Pradesh-173 025**

In the matter of :

1. Sh. Sunil Sharma s/o Sh. Jai Kishan Sharma, r/o H. No. 129 A, Stret No. 10, Adarsh Colony, Balongi, S.A.S. Nagar (Mohali), Punjab-140 301.

2. Deepika d/o Sh. Ranveer Singh, r/o Village Bhagani (54), Tehsil Paonta Sahib, District Sirmaur (H.P.).

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Sunil Sharma s/o Sh. Jai Kishan Sharma, r/o H. No. 129 A, Stret No. 10, Adarsh Colony, Balongi, S.A.S. Nagar (Mohali), Punjab-140 301 and Deepika d/o Sh. Ranveer Singh, r/o Village Bhagani (54), Tehsil Paonta Sahib, District Sirmaur (H.P.) have filed an application alongwith affidavits in this court under section 15 of Special Marriage Act, 1954 and stating therein that they have solemnized their marriage on 07-05-2023 and they have been living together as husband and wife ever since then. Hence notices are given to all concerned and General Public to this effect that if anybody have any objection regarding the registration of marriage duly solemnized on 07-05-2023 between Sh. Sunil Sharma s/o Sh. Jai Kishan Sharma, r/o H. No. 129 A, Stret No. 10, Adarsh Colony, Balongi, S.A.S. Nagar (Mohali), Punjab-140 301 and Deepika d/o Sh. Ranveer Singh, r/o Village Bhagani (54), Tehsil Paonta Sahib, District Sirmaur (H.P.) he/she should file written objections and appear personally or through an authorized agent before this court within 30 days from the date of issue of this notice. After expiry of the said period the marriage certificate would be issued to the applicants by this court.

Issued under my hand and office seal of this court on 29-08-2026.

Seal.

Sd/-
(DWIJ GOEL, IAS),
Marriage Officer-cum-SDM,
Paonta Sahib, District Sirmaur (H.P.).

**ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, उप-तहसील बीहड़ू कलां,
जिला ऊना (हि0प्र0)**

रविन्दर कुमार आदि

बनाम

मुलतान सिंह आदि

वादीगण रविन्दर कुमार आदि वासीगण महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) का तकसीम हुक्मन केस विचाराधीन है मिसल 809574/NTBP/ 2025 खेवट नं0 27 जमाबंदी वर्ष 2021-22 महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) जिसमें प्रतिवादीगण 3. यशपाल सिंह, दौलत राम, 4. जीवन सिंह पुत्र दौलत राम, 5. श्रीमती प्रवीण कुमारी पुत्री दौलत राम, 6. श्रीमती रीना कुमारी पुत्री दौलत राम, 7. श्रीमती गायत्री देवी विधवा दौलत राम, 8. मुकेश राणा पुत्र विजय कुमार, 9. सुमित कुमार पुत्र विजय कुमार, 10. कुमारी अंकिता रानी पुत्री विजय कुमार, 11. श्रीमती रक्षा देवी विधवा विजय कुमार, 12. होशियार सिंह पुत्र दिवाना, 13. चौकस राम पुत्र दिवाना, 14. महिन्दर सिंह पुत्र दिवाना, 15. श्रीमती ममता देवी पुत्री चौकस राम, समस्त वासीगण महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) को साधारण तरीके से समन तामील नहीं हो पा रहे हैं। व प्रतिवादीगण उक्त तकसीम हुक्मन में लगातार गैरहाजिर हैं।

अतः उपरोक्त प्रतिवादीगण व सर्वसाधारण को इस इशतहार के माध्यम से सूचित किया जाता है कि इस तकसीम हुक्मन के सम्बन्ध में कोई आपत्ति या एतराज हो या अपना पक्ष रखने हेतु वह इस मुकद्दमा की पैरवी हेतु निर्धारित तिथि पेशी 23-09-2026 को प्रातः 10.00 बजे इस न्यायालय में असालतन या वकालतन पेश होवे। अन्यथा मिसल में आगामी कार्यवाही अमल में लाई जाएगी।

आज दिनांक 22-08-2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0)।

**ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, उप-तहसील बीहड़ू कलां,
जिला ऊना (हि0प्र0)**

रविन्दर कुमार आदि

बनाम

मुलतान सिंह आदि

वादीगण रविन्दर कुमार आदि वासीगण महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) का तकसीम हुक्मन केस विचाराधीन है। मिसल 809571/NTBP/ 2025 खेवट नं0 28 जमाबंदी वर्ष 2021-22 महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) जिसमें प्रतिवादीगण 3. यशपाल सिंह, दौलत राम, 4. जीवन सिंह पुत्र दौलत राम, 5. श्रीमती प्रवीण कुमारी पुत्री दौलत राम, 6. श्रीमती रीना कुमारी पुत्री दौलत राम, 7. श्रीमती गायत्री देवी विधवा दौलत राम, 8. मुकेश राणा पुत्र विजय कुमार, 9. सुमित कुमार पुत्र विजय कुमार, 10. कुमारी अंकिता रानी पुत्री विजय कुमार, 11. श्रीमती रक्षा देवी विधवा विजय कुमार, 12. होशियार सिंह पुत्र दिवाना, 13. महिन्दर सिंह पुत्र दिवाना, 14. श्रीमती ममता देवी पुत्री चौकस राम, 15. वृज

लाल पुत्र दया राम समस्त वासीगण महाल कमूण, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) को साधारण तरीके से समन तामील नहीं हो पा रहे हैं। व प्रतिवादीगण उक्त तकसीम हुक्मन में लगातार गैरहाजिर हैं।

अतः उपरोक्त प्रतिवादीगण व सर्वसाधारण को इस इशतहार राजपत्र के माध्यम से सूचित किया जाता है कि इस तकसीम हुक्मन के सम्बन्ध में कोई आपत्ति या एतराज हो या अपना पक्ष रखने हेतु वह इस मुकद्दमा की पैरवी हेतु निर्धारित तिथि पेशी 23-09-2026 को प्रातः 10.00 बजे इस न्यायालय में असालतन या वकालतन पेश होवे। अन्यथा मिसल में आगामी कार्यवाही अमल में लाई जाएगी।

आज दिनांक 22-08-2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, उप-तहसील बीहड़ू कलां,
जिला ऊना (हि0प्र0)

योगराज आदि

बनाम

श्रीमती सुनीता शर्मा (वारसान लेखराज) आदि

वादीगण योगराज आदि वासीगण महाल टीहरा खास, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) का तकसीम हुक्मन केस विचाराधीन है। मिसल 191/NTBP/2024 (club 194, 195, 186, 187/NTBP/2020) महाल टीहरा खास, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) जिसमें प्रतिवादीगण 3. शक्ति चन्द पुत्र अन्नत राम, 4. बाल कृष्ण पुत्र अन्नत राम, 5. किशोरी लाल पुत्र अन्नत राम समस्त वासीगण महाल टीहरा खास, उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0) को साधारण तरीके से समन तामील नहीं हो पा रहे हैं। व प्रतिवादीगण उक्त तकसीम हुक्मन में लगातार गैरहाजिर हैं।

अतः उपरोक्त प्रतिवादीगण व सर्वसाधारण को इस इशतहार राजपत्र के माध्यम से सूचित किया जाता है कि इस तकसीम हुक्मन के सम्बन्ध में कोई आपत्ति या एतराज हो या अपना पक्ष रखने हेतु वह इस मुकद्दमा की पैरवी हेतु निर्धारित तिथि पेशी 22-09-2026 को प्रातः 10.00 बजे इस न्यायालय में असालतन या वकालतन पेश होवे। अन्यथा मिसल में आगामी कार्यवाही अमल में लाई जाएगी।

आज दिनांक 22-08-2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
उप-तहसील बीहड़ू कलां, जिला ऊना (हि0प्र0)।

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी अम्ब, तहसील अम्ब, जिला ऊना (हि0प्र0)

1. श्री रवि शर्मा पुत्र श्री साधू राम शर्मा, निवासी गांव आठवां, तहसील अम्ब, जिला ऊना (हि0प्र0)
2. श्रीमती जमना देवी पुत्री संसार चन्द, निवासी गांव कलरुही, तहसील अम्ब, जिला ऊना (हि0प्र0)।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जेर धारा 8(4) विवाह पंजीकरण अधिनियम, 1996 के अन्तर्गत पंजीकरण करवाने बारे।

श्री रवि शर्मा पुत्र श्री साधू राम शर्मा, निवासी गांव आठवां, तहसील अम्ब, जिला ऊना (हि0प्र0) ने इस अदालत में प्रार्थना—पत्र मय शपथ—पत्र गुजारा है कि उसकी शादी श्रीमती जमना देवी पुत्री संसार चन्द, निवासी गांव कलरुही, तहसील अम्ब, जिला ऊना (हि0प्र0) के साथ दिनांक 20—11—2015 को मुताबिक हिन्दू रीति—रिवाज के साथ हुई है और तब से वे बतौर पति—पत्नी आपस में रह रहे हैं जिसका पंजीकरण अज्ञानतावश पंचायत अभिलेख में न करवाया है तथा प्रार्थी अब इसे पंजीकृत करवाना चाहते हैं। रिपोर्ट स्थानीय पंजीकरण विवाह पंजीकरण ग्राम पंचायत कलरुही के अनुसार प्रार्थी की शादी दर्ज न हुई है।

अतः सर्वसाधारण को इस इशतहार/मुश्त्री मुनादी द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त शादी दर्ज करने बारे कोई उजर हो तो दिनांक 15—09—2026 को प्रातः 10.00 बजे या उससे पहले किसी भी दिन असालतन या वकालतन हाजिर अदालत होकर उजर पेश करे अन्यथा नियमानुसार सम्बन्धित ग्राम पंचायत को शादी दर्ज करने बारे आदेश जारी कर दिए जाएंगे।

आज दिनांक 29—07—2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ है।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
अम्ब, जिला ऊना (हि0प्र0)।

CHANGE OF NAME

I, Rajender Singh (earlier known as Rajinder) s/o Sh. Hari Singh, r/o 7/8, Dairaton 1,2,3, Ward No. 16, Khalini, Shimla East, Shimla (H.P.)-171 002 have changed my name from Rajinder to Rajender Singh for all legal and official purposes.

RAJENDER SINGH
s/o Sh. Hari Singh,
r/o 7/8, Dairaton 1,2,3, Ward No. 16,
Khalini, Shimla East, Shimla (H.P.)-171 002.

CHANGE OF NAME

I, Rukhsar w/o Sh. Inderjeet, Mother of my minor son Sartaaaj Sandhu, r/o H.No. 291/9 Kumhar Gali, Tehsil Nahan, Distict Sirmaur, Himachal Pradesh-173 001 have changed the name of my minor son from Sartaaaj Sandhu to Saransh. Henceforth, he shall be known and called as Saransh for all purposes.

RUKHSAR
w/o Sh. Inderjeet,
r/o H.No. 291/9 Kumhar Gali, Tehsil Nahan,
Distict Sirmaur, Himachal Pradesh-173 001.

CHANGE OF NAME

I, Renuka Sharma w/o Sh. Mandeep Kumar, r/o Vill. Baihanji, P.O. Gopalpur, Tehsil Sarkaghat, Distt. Mandi (H.P.) declare that I have changed my name from Renuka to Renuka Sharma. All concerned please note.

RENUKA SHARMA
w/o Sh. Mandeep Kumar,
r/o Vill. Baihanji, P.O. Gopalpur,
Tehsil Sarkaghat, Distt. Mandi (H.P.).

CORRECTION OF NAME

I, Dravinder Singh s/o Sh. Bhavlesh Singh, V.P.O. Saru, Tehsil & Distt. Chamba (H.P.) declare that my name Dhravinder Kumar is wrongly entered in my Aadhar Card, my correct name is Dravinder Singh as per my Matric Certificate. Please note.

DRAVINDER SINGH
s/o Sh. Bhavlesh Singh,
V.P.O. Saru, Tehsil & Distt. Chamba (H.P.).

CORRECTION OF NAME

I, Tarun Kumar s/o Late Sh. Tirlok Singh, r/o Vill. Dunghi, P.O. Tikkar Khatrian, Teh. Bamson at Tauni Devi, Distt. Hamirpur (H.P.) declare that my father's name is wrongly recorded in my Aadhar Card as Tarlok Chand whereas, his correct name is Tirlok Singh as per all relevant documents. Tirlok Singh & Tarlok Chand both are same person. All concerned note.

TARUN KUMAR
s/o Late Sh. Tirlok Singh,
r/o Vill. Dunghi, P.O. Tikkar Khatrian,
Teh. Bamson at Tauni Devi, Distt. Hamirpur (H.P.).

CORRECTION OF NAME

I, Hema Devi w/o Sh. Maan Singh, r/o Village Runja, P.O. Pulbahal, Naoni (91), Shimla, Himachal Pradesh-171 226 declare that I have changed my name from Hima Kumari to Hema Devi. All concerned please may note.

HEMA DEVI
w/o Sh. Maan Singh,
r/o Village Runja, P.O. Pulbahal,
Naoni (91), Shimla, Himachal Pradesh-171 226.

CHANGE OF NAME

I, Vipin Dei w/o Sh. Negi Ram, r/o Village Manghara, P.O. Devi Dhar, Tehsil Chirgaon, Distt. Shimla (H.P.) declare that my name is wrongly mentioned as Bripan Devi in my Aadhar Card. Therefore, it should be changed to Vipin Dei in my Aadhar Card. All concerned may note please.

VIPAN DEI
w/o Sh. Negi Ram,
r/o Village Manghara, P.O. Devi Dhar,
Tehsil Chirgaon, Distt. Shimla (H.P.).

CHANGE OF NAME

I, Meena Kumari Singh d/o Sh. Man Bhadur Singh, r/o V.P.O. Kutara, Tehsil Rohru, Distt. Shimla (H.P.) declare that I have changed my name from Meena Kumari (old name) to Meena Kumari Singh (new name). Note the relevant information.

MEENA KUMARI SINGH
d/o Sh. Man Bhadur Singh,
r/o V.P.O. Kutara,
Tehsil Rohru, Distt. Shimla (H.P.).

CHANGE OF NAME

I, Ajay Budha Magar s/o Sh. Hast Vir Budha, r/o V.P.O. Samoli, Tehsil Rohru, Distt. Shimla (H.P.) declare that I have changed my daughter's name from Neha (old name) to Neha Budha Magar (new name). Note the relevant information.

AJAY BUDHA MAGAR
s/o Sh. Hast Vir Budha,
r/o V.P.O. Samoli,
Tehsil Rohru, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Priyanka w/o Sh. Purshotam Singh, r/o Vill. Diswani, P.O. Kaloti, Tehsil Chirgaon, Distt. Shimla (H.P.) declare that my son's name is wrongly mentioned as Baby one in his Aadhar Card No. 4952 1089 1919. Therefore, it should be changed to Tavish Rithwan in Aadhar Card. Note the relevant information.

PRIYANKA
w/o Sh. Purshotam Singh,
r/o Vill. Diswani, P.O. Kaloti,
Tehsil Chirgaon, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Rashma Devi w/o Sh. Vinod Kumar, r/o Vill. Duhak, P.O. Chouri, Tehsil Sujanpur, Distt. Hamirpur (H.P.). In birth Certificates of my daughter Sanjivani Thakur & son Kunal Thakur my name is wrongly entered as Rashma *alias* Rashma Devi. Whereas, my correct name is Rashma Devi. I shall be known as Rashma Devi for all purposes in future. All concerned please note.

RASHMA DEVI
w/o Sh. Vinod Kumar,
r/o Vill. Duhak, P.O. Chouri,
Tehsil Sujanpur, Distt. Hamirpur (H.P.).

CHANGE OF NAME

I, Latif Muhammad s/o Sh. Deen Mohd, r/o Vill. Dhutta, P.O. Diur, Tehsil Salooni, Distt. Chamba (H.P.) declare that I have changed my minor son's name from Tarik Ali to Tarak Ali. He shall be known as Tarak Ali for all purposes in future. All concerned please note.

LATIF MUHAMMAD
s/o Sh. Deen Mohd,
r/o Vill. Dhutta, P.O. Diur,
Tehsil Salooni, Distt. Chamba (H.P.).

CORRECTION OF NAME

I, Akhil Jain s/o Sh. Naveen Jain, r/o Jain Hall, Middle Bazar Shimla, Tehsil & Distt. Shimla (H.P.) declare that in my son's Aadhar card bearing No. 8894 2714 8698 his name is wrongly entered as Second Baby of Disha Jain, which should be corrected as Reyan Jain.

AKHIL JAIN
s/o Sh. Naveen Jain,
r/o Jain Hall, Middle Bazar Shimla,
Tehsil & Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Akhil Jain s/o Sh. Naveen Jain, r/o Jain Hall, Middle Bazar Shimla, Tehsil & Distt. Shimla (H.P.) declare that in my son's Aadhar card bearing No. 8069 4755 4133 his name is wrongly entered as First Baby of Disha Jain, which should be corrected as Ridhaan Jain.

AKHIL JAIN
s/o Sh. Naveen Jain,
r/o Jain Hall, Middle Bazar Shimla,
Tehsil & Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Chander Ram, No. 1294338E, EX. GNR. s/o Sh. Amir Sukh, r/o Village Baturi, P.O. Sapni, Tehsil Sangla, Distt. Kinnaur, Himachal Pradesh declare that in my service record my daughter's name was wrongly entered as Vimla whereas, my daughter's correct name is Radha Devi. All concerned please may note.

CHANDER RAM
s/o Sh. Amir Sukh,
r/o Village Baturi, P.O. Sapni, Tehsil Sangla,
Distt. Kinnaur, Himachal Pradesh.

CHANGE OF NAME

I, Arti Devi w/o Sh. Pankaj Kumar, r/o V.P.O. Dahad, Tehsil Jhandutta, Distt. Bilaspur (H.P.) declare that I have changed my minor daughter's name from Baby First of Arti (Aadhar Card No. 5080 1236 0755) to Priyanshi which is entered in her birth certificate. Concerned note.

ARTI DEVI
w/o Sh. Pankaj Kumar,
r/o V.P.O. Dahad, Tehsil Jhandutta,
Distt. Bilaspur (H.P.).

CORRECTION OF NAME

I, Preeti aged 33 years w/o Sh. Suresh Kumar, r/o Village Deothi, Post Office Sari, Deothi (88), Sari, Shimla (H.P.)-171 226 declare that my son's name is wrongly entered in Aadhar Card bearing No. 2307 0192 8318, as Udhba (Old Name) instead of Uddhav Thakur (New Name). Now, I want to correct the same.

PREETI
w/o Sh. Suresh Kumar,
r/o Village Deothi,
Post Office Sari, Deothi (88),
Sari, Shimla (H.P.)-171 226.

CHANGE OF NAME

I, Sohan Singh s/o Kirpa Ram, Koti (179), Sirmaur (H.P.)-173 027 do hereby declare that I have changed my daughter's name as Aarushe (Old Name) to Aarushi Singta (New Name). All concerned please may note.

SOHAN SINGH
s/o Kirpa Ram,
Koti (179), Sirmaur (H.P.)-173 027.

CHANGE OF NAME

I, Narender Singh s/o Sh. Bahadur Singh, r/o Village Jablog, P.O. Sainj, Tehsil Sangrah, District Sirmaur (H.P.) declare that I have changed the name of my daughter from Ashvarya Thakur to Aishwarya. All concerned please may note.

NARENDER SINGH
s/o Sh. Bahadur Singh,
r/o Village Jablog, P.O. Sainj,
Tehsil Sangrah, District Sirmaur (H.P.).

CHANGE OF NAME

I, Netar Singh (New Name) s/o Sh. Ajbu Ram, Navna, Kando Bhatnaul (230), Sirmaur, Kando Bhatnaul (H.P.)-173 027 have changed my name from Natter Singh (Previous Name) to Netar Singh (New Name). All concerned please may note.

NETAR SINGH
s/o Sh. Ajbu Ram,
Navna, Kando Bhatnaul (230),
Sirmaur, Kando Bhatnaul (H.P.)-173 027.

CHANGE OF NAME

I, Khelo (New Name) w/o Sh. Duni Chand, House No. 13, Ward No. 1, Post Office Neoli, Chargadi, Distt. Kullu (H.P.)-175 138 declare that I have changed my name from Khilu (Previous Name) to Khelo (New Name). All concerned please may note.

KHELO
w/o Sh. Duni Chand,
House No. 13, Ward No. 1,
Post Office Neoli, Chargadi,
Distt. Kullu (H.P.)-175 138.

CHANGE OF NAME

I, Kaku Ram s/o Sh. Tulis Ram, r/o Galog Shakain (16), Jadol Taproli, Sirmaur (H.P.)-173 223 do hereby declare that I have changed my daughter's name from Shurutika (Old Name) to Shruti Kumari (New Name). All concerned please may note.

KAKU RAM
s/o Sh. Tulis Ram,
r/o Galog Shakain (16),
Jadol Taproli, Sirmaur (H.P.)-173 223.

CHANGE OF NAME

I, Sunil Kumar s/o Sh. Tulis Ram, r/o Sang Thara (34), P.O. Kotla Bangi, Distt. Sirmaur (H.P.)-173 223 do hereby declare that I have changed my daughter's name from Thamana Habbi (Old Name) to Tamanna Habbi (New Name). All concerned please may note.

SUNIL KUMAR
s/o Sh. Tulis Ram,
r/o Sang Thara (34), P.O. Kotla Bangi,
Distt. Sirmaur (H.P.)-173 223.

CHANGE OF NAME

I, Vikramjeet Singh s/o Sh. Harabans Singh, r/o Post Office Kihar, Village Sarog, Tehsil Salooni, Saroga (173), Distt. Chamba (H.P.)-176 320 do hereby declare that I have changed my daughter's name from Kashvi Pathania (Old Name) to Vikrantika Singh (New Name). All concerned please may note.

VIKRAMJEET SINGH
s/o Sh. Harabans Singh,
r/o Post Office Kihar, Village Sarog,
Tehsil Salooni, Saroga (173),
Distt. Chamba (H.P.)-176 320.

CHANGE OF NAME

I, Sanjay Kumar s/o Sh. Pratap Singh Sainai Kuni Ser (37), P.O. Kotla Bangi, Distt. Sirmaur (H.P.)-173 223 declare that I have changed my daughter's name from Kunnu (Old Name) to Kannu (New Name). All concerned please may note.

SANJAY KUMAR
s/o Sh. Pratap Singh,
Sainai Kuni Ser (37), P.O. Kotla Bangi,
Distt. Sirmaur (H.P.)-173 223.

CORRECTION OF NAME

I, Daulat Ram s/o Sh. Udi Ram, r/o Village Jajhar, Post Office Ghatu, Tehsil Nirmand, Distt. Kullu (H.P.). My daughter's name is mistakenly listed as Chatnakumari in her Aadhar Card. Her original name is Chetna Kumari, while her birth certificate and school certificate records list her as Chetna Kumari. Please correct the name Chetna Kumari.

DAULAT RAM
s/o Sh. Udi Ram,
r/o Village Jajhar, Post Office Ghatu,
Tehsil Nirmand, Distt. Kullu (H.P.).

CORRECTION OF NAME

I, Pingla w/o Mr. Harish Kumar, r/o Village Kundakod, Post Office Jadoli, Tehsil Nirmand, District Kullu (H.P.). My daughter's name is incorrectly listed as Gujan in her Aadhar Card. However, the birth certificate and school certificate records show Gunjan. Please correct the name Gunjan.

PINGLA
w/o Mr. Harish Kumar,
r/o Village Kundakod, Post Office Jadoli,
Tehsil Nirmand, District Kullu (H.P.).

CHANGE OF NAME

I, Roshan Lal Sharma (New Name) s/o Sh. Shiv Lal Sharma, r/o Village Kharota, P.O. Ratnari, Tehsil Kotkhai, Distt. Shimla (H.P.) declare that I have changed my name from Sh. Roshan Lal Sharma to Roshan Lal Sharma. All concerned please may note.

ROSHAN LAL SHARMA
s/o Sh. Shiv Lal Sharma,
r/o Village Kharota, P.O. Ratnari,
Tehsil Kotkhai, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Durga Devi w/o Sh. Gurdial, Village Jajhar, Post Office Ghatu, Tehsil Nirmand, District Kullu (H.P.). My daughter's name has been incorrectly mentioned as Promila Joshi in her Aadhar Card. Correct name Pomila Joshi is duly recorded in her Matriculation Examination Certificate. The name Pomila Joshi should be corrected.

DURGA DEVI
w/o Sh. Gurdial,
Village Jajhar, Post Office Ghatu,
Tehsil Nirmand, District Kullu (H.P.).

CHANGE OF NAME

I, Rajat Singh Teji (New Name) s/o Sh. Harbhajan Singh, r/o Below Singh Sabha, Cow Shed No. 2, Gaddi Khanna, Shimla (H.P.)-171 001 declare that I have changed my name from Rajat (Old Name) to Rajat Singh Teji (New Name). All concerned please may note.

RAJAT SINGH TEJI
s/o Sh. Harbhajan Singh,
r/o Below Singh Sabha,
Cow Shed No. 2, Gaddi Khanna,
Shimla (H.P.)-171 001.

CORRECTION OF NAME

I, Younus Pervaiz s/o Sh. Abdul Latif, r/o Vidya Bhawan Ghorachowki, Tehsil & District Shimla (H.P.) declare that my daughter's name in her Birth Certificate have wrongly been entered as Sariha Aansari whereas, her correct name is Humera Ansari. Concerned note.

YOUNUS PERVAIZ
s/o Sh. Abdul Latif,
r/o Vidya Bhawan Ghorachowki,
Tehsil & District Shimla (H.P.).
