

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 16564/2024

Sanjeev Kumar Sain S/o Shri Jhamman Lal Sain, R/o Village  
Beejvada Chauhan Teh. Mundavar, District- Alwar (Raj.)

----Petitioner

Versus

Manager, Nimrana Hotels Company Pvt. Ltd., Nimrana, Bahroad,  
District Alwar.

----Respondent

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For Petitioner(s) : Mr. Dharmendra Jain  
For Respondent(s) : Ms. Pranjal for  
Mr. Veyankatesh Garg

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**HON'BLE MR. JUSTICE MUNNURI LAXMAN**

**Order**

**08/04/2026**

1. The present writ petition has been filed by the petitioner challenging the orders dated 19.09.2022 ad 19.09.2024, whereunder the Labour Court from the initial order declared that the procedure adopted in termination is unfair and by later order, the employer/respondent was permitted to lead the evidence at first turn. Aggrieved by the same, the present writ petitioner has been filed.
2. Learned counsel for the petitioner submits that the Labour Court while giving finding that procedure adopted for removal of the petitioner was unfair, was based on the subsequent proceeding which was not at all under challenge before the Labour Court. It is also his contention that the petitioner's case rest upon his claim of oral termination and not basing on any enquiry so that the Labour Court had an

occasion to examine whether such an enquiry is valid or not at the stage of preliminary enquiry before proceeding further in the matter. The procedure adopted by the Labour Court was not correct. He also submits that initially burden lies on the petitioner to lead evidence instead the Labour Court permitted the respondent/employer to lead his evidence at first as if that the Labour Court was examining an action basing on any enquiry which allegedly declared to be unfair. Therefore, he seeks quashing of both the orders.

3. Learned counsel for the respondent/employer submits that the Labour Court has rightly considered the plea set-up by the respondent that the termination was basing on the alleged enquiry and having held that it was not a fair enquiry, it permitted the employer to lead evidence.
4. Having considered the contentions of both the parties and issue raised in the present writ petition, this court finds that the Labour Court went in wrong in preliminary examining the enquiry. It is not a case basing on any enquiry. The case set up by the petitioner and the defence set-up by the respondent/employer clearly shows that the action which is under challenge was not basing on any enquiry, issues raised requires an evidence to be given by both the parties before the Labour Court. If the action is based on any enquiry, resulting in termination order which is questioned before the Labour Court, then Labour court before proceeding further preliminary required to examine whether the enquiry which is a foundation for termination was fair enquiry or not. In the event it concluded that it is not a fair enquiry, then

respondent/employer required to give an opportunity to lead evidence to prove the charge which is the subject matter of the enquiry which is under challenge.

5. In the present case, though there is an enquiry by way of charge-sheet for abandonment of services, the enquiry appears to have been drawn ex-parte and they become final which is not under challenge before the Labour Court by the employee. The employer's claim was that there was no oral termination. The plea set-up by the respondent/employer is only abandonment. This means the employee required to lead evidence to prove his case or oral termination. The respondent/employer thereafter required to lead his own evidence to prove defence set-up by them with regard to abandonment. It is needless to say that all the material which are relevant to prove abandonment, the respondent/ employer is entitled to brought on record as and when the stage comes for leading their defence.
6. This Court finds that both the impugned orders are without any jurisdiction and suffers from jurisdictional error and require to be set aside.
7. In the result, the present writ petition is allowed. The impugned orders dated 19.09.2022 (Annex.3) and 19.09.2024 (Annex.10) are quashed and set aside. The Labour Court is directed to give initial opportunity to the petitioner to lead his evidence to prove his case and thereafter, the respondent/employer shall be given opportunity to prove their defence and it is also open to take all such pleas, which are available to the respondent-

employer in the fresh affidavit to be filed at an appropriate stage and also entitled to place all the material which are in their possession to prove their defence. The said exercise shall be done within three months from the date of order.

8. Misc. application(s), if any, shall stand disposed of.

(MUNNURI LAXMAN),J