



2026:CGHC:12507

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1049 of 2023

1 - Smt. Swati Rahi Shukla W/o Shri Sunil Shukla Aged About 35 Years
R/o Lal Bunglow, Jyotipur, Gorella Po,, District : Gaurela-Pendra-
Marwahi, Chhattisgarh.

... Petitioner(s)

versus

1 - The State Of Chhattisgarh Through Principal Secretary, Health And
Family Welfare, Mahanadi Bhawan, Secretariat, Atal Nagar, Nava
Raipur, Chhattisgarh State.

2 - The Commissioner Medical Services, Office Of Commissioner
Medical And Health Services, Atal Nagar, Nava Raipur, Chhattisgarh
State.

3 - The Director Medical And Health Services, Directorate Of Medical
Health Services, Atal Nagar, Nava Raipur, Chhattisgarh State.

4 - The Chief Health And Medical Officer Office Of Chief Health And
Medical Officer, Gorella Po, Gorella, District : Gaurela-Pendra-Marwahi,
Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. K.R. Nair, Advocate.

For Respondent(s)/State : Mr. Sangharsh Pandey, G.A.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

16/03/2026

1. By way of this petition, the petitioner has prayed for following reliefs:-

“10.1. That this Hon'ble Court be pleased to call for the entire records of the case from the custody and possession of the respondents.

10.2. That this Hon'ble Court be pleased to quash the impugned notice of termination dated 19/1/2023 (P/1).

10.3. That this Hon'ble Court be pleased to grant any other or further relief as may be deemed fit and proper in favour of the petitioner in the interest of justice.”

2. Brief facts of the case, is that, the petitioner was appointed as a Feeding Demonstrator on a contractual basis with a consolidated salary of Rs. 8,000/- per month vide order dated 19.08.2011. As per the terms of appointment, the contract was initially valid up to 31.03.2012 and it was specifically stipulated that the post as well as the place of posting would be non-transferable. It was further provided that in case the work of the employee was found unsatisfactory, the services could be terminated by giving one month's notice or one month's salary in lieu thereof, and similarly, if the employee intended to resign, she was required to give one month's notice or salary in lieu of notice. The appointment order also stipulated that the employee would be governed by the Civil Services (Classification, Control and Appeal) Rules, 1965.

Thereafter, the petitioner's services were continued and renewed from year to year upon finding her work satisfactory and in the absence of any adverse report from any quarter. Since then, she has been continuously discharging her duties with utmost sincerity to the satisfaction of her superiors as well as the parents of the children admitted to the Centre for treatment. Although no formal order extending or renewing the contract has been served upon the petitioner, it has been the established practice of the authorities to issue such renewal orders in the month of April every year; however, in the absence of a copy of such order, the petitioner is unable to place the same on record. The duties of the Feeding Demonstrator are defined in the standing order issued by the Medical Directorate. It is further submitted that during a surprise visit conducted by the Principal Secretary, Medical and Health Services, to the NRC on 11.01.2023, he demanded a data chart showing details of the children admitted for care and feeding along with their weight records taken at intervals of fifteen days. All such records are duly maintained and preserved at the NRC, and the relevant data is also entered and maintained online, which can be accessed at any time. However, the visiting dignitary became annoyed with the petitioner and directed the Chief Medical and Health Officer to seek an explanation from her as to why her services should not be terminated for alleged negligence and carelessness, though he was not competent to issue such directions. Pursuant thereto, a show cause notice dated

13.01.2023 was issued by the Chief Medical and Health Officer. The petitioner submitted a detailed explanation along with all supporting documents, which were already available in the records and online, on 16.01.2023. It is submitted that the decision to issue the termination notice was taken on the advice of the visiting Principal Secretary, while the notice was formally issued by the Chief Medical and Health Officer, despite the fact that the CMHO was well aware that most of the records demanded were neither written nor maintained by the petitioner but by other employees of the Centre, a fact which he failed to disclose to the Principal Secretary at the relevant time. Furthermore, the CMHO did not forward the petitioner's reply to the Principal Secretary to ascertain whether it was satisfactory; instead, he himself concluded that the reply was unsatisfactory and proceeded to issue the impugned termination notice. Such action reflects a clear double standard, as the show cause notice was issued on the instructions of the Principal Secretary while the decision to terminate the petitioner's services was taken independently by the CMHO. It is respectfully submitted that the issue was not that the records were not maintained or that the data entries had not been made, but rather that the records could not be produced immediately on demand due to the petitioner's inability to understand the language in which the demand was made. Had the petitioner properly understood what was required of her, she would have obtained the relevant records from the

concerned employees who were responsible for maintaining them and produced the same for inspection, however, no such opportunity was afforded to her. It is further submitted that the data is regularly entered and preserved online, and every entry automatically records the date and time of its creation, thereby ruling out any possibility that the entries were made after the inspection merely to safeguard the petitioner's service. In these circumstances, there was absolutely no justification for issuing the termination notice to the petitioner on a ground for which she was neither responsible nor had any intention to conceal the records from the superior authorities. At best, if any lapse occurred, it was an innocent and unintentional mistake, and therefore the petitioner, who has rendered sincere, honest and dedicated service for several years, does not deserve to be removed from service in such an arbitrary manner.

3. Learned counsel for the petitioner submits that the allegations levelled against the petitioner in the impugned notice seeking termination of her services are wholly baseless, unfounded and devoid of any merit, and therefore the same cannot form the basis for terminating her services by any stretch of imagination. It is contended that throughout the course of her service, not a single allegation of negligence, misconduct or carelessness has ever been made against the petitioner either by her superior officers, by any staff member working with her, or even by the parents of the children who were brought for treatment to the Nutrition

Rehabilitation Centre (NRC). It is further submitted that at best the incident referred to in the notice appears to have arisen merely due to a communication gap, which in no manner can be treated as a serious lapse warranting the extreme punishment of removal from service, and such an action would result in grave injustice not only to the petitioner but also to the children who have been under her care, treatment and supervision at the Centre. Learned counsel further submits that the petitioner was never entrusted with the responsibility of maintaining or writing data entries or other official records and therefore she cannot be held responsible for the alleged non-production of such records before the Principal Secretary. It is also argued that the impugned notice contains serious and stigmatic allegations against the petitioner and, as the notice itself indicates that it would automatically culminate into a final order of termination upon expiry of the notice period, the same clearly amounts to a stigmatic termination which in substance is punitive in nature. It is submitted that the respondents cannot impose such a punitive action without following the due process of law and without adhering to the principles of natural justice. Learned counsel further contends that the respondents have arrived at a conclusion that the petitioner has committed serious misconduct rendering her unfit to continue in service without conducting any proper departmental enquiry as mandated under the applicable service rules, including the CCS Rules, which as per the appointment order govern the service

conditions of the petitioner. In absence of any such enquiry and opportunity of defence, the proposed action is wholly arbitrary and illegal. It is lastly submitted that the petitioner is innocent, has committed no act detrimental to the interest of the Centre, and therefore no punishment, much less the extreme penalty of termination of service, can be imposed upon her. Consequently, the impugned notice proposing termination of the petitioner's services deserves to be quashed and set aside by this Hon'ble Court.

4. On the other hand, learned counsel for the State submits that on 11.01.2023 a surprise inspection of the Nutrition Rehabilitation Centre was conducted by the Principal Secretary, Medical and Health Services, during which the data charts maintained at the Centre were examined, particularly the records relating to the children admitted for care, feeding and treatment, including the periodic weight records which were required to be maintained and updated every fifteen days. It is submitted that during the course of the inspection the visiting authority found the work and presentation of the petitioner unsatisfactory, as the petitioner had failed to properly maintain the requisite records, including the chart reflecting the daily weight of the children and the corresponding improvement in their health condition. It is further submitted that several other essential documents were also not maintained in the prescribed manner and even the previous records were found to be improperly kept, due to which the visiting

authority recorded adverse remarks regarding the functioning and performance of the petitioner. Learned counsel further submits that on the basis of the said inspection and the negative observations made by the visiting authority, the Chief Medical and Health Officer, District Gourella Pendra Marwahi, issued the impugned notice and subsequently passed the order dated 19.01.2023 terminating the services of the petitioner. It is contended that the present petition filed by the petitioner challenging the said order is wholly misconceived, devoid of merit and substance, and therefore deserves to be dismissed at the threshold. Learned counsel submits that the impugned order has been passed strictly in accordance with law after considering all relevant aspects of the matter and does not suffer from any illegality or arbitrariness. It is further pointed out that as per the appointment order dated 19.08.2011, whereby the petitioner was appointed as a Feeding Demonstrator on contractual basis, it was specifically stipulated in paragraph 5 that in the event the performance of the selected employee is found to be unsatisfactory, the competent authority is empowered to terminate the services at any time by giving one month's prior notice or by paying one month's salary in lieu thereof. Therefore, the termination of the petitioner's services has been effected strictly in terms of the contractual conditions governing her appointment. Learned counsel thus submits that the action of the respondents is fully justified and legally sustainable. Hence, the petition filed by

the petitioner is devoid of merit and substance and, therefore, deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the material available on record.
6. The Hon'ble Supreme Court in the matter of ***Swati Priyadarshini vs. State of Madhya Pradesh and Others*** reported in ***2024 SCC OnLine SC 2139*** decided on ***22.08.2024***, in which the ratio laid down by the Hon'ble Supreme Court is to the fact that even if for contractual appointment, if any stigmatic order is to be passed, it is to be passed after holding proper enquiry and after giving due opportunity of hearing to the concerned delinquent/employee. The Co-ordinate Bench of this Court in ***WPS No. 4969/2015*** in the matter of ***Digambar Chandrakar vs. State of Chhattisgarh and others*** decided on ***22.08.2024*** and in the said case also, this Court of the view that in order to pass a stigmatic or cumulative order, the concerned authorities are required to hold a departmental enquiry after giving due opportunity of hearing to delinquent/ employee.
7. The view taken by the Hon'ble Supreme Court in the matter of ***Swati Priyadarshini*** (supra) goes to show that before passing any stigmatic order for removal of any employee from service, a departmental enquiry is required to be done, which has not been done in this case. In para 34 of the said judgment, the Hon'ble Supreme Court has held as under:-

“34. It is profitable to refer to what five learned Judges of

this Court laid down in Parshotam Lal Dhingra v. Union of India, 1957 SCC OnLine SC 5:

"28. The position may, therefore, be summed up as follows: Any and every termination of service is not a dismissal, removal or reduction in rank. A termination of service brought about by the exercise of a contractual right is not per se dismissal or removal, as has been held by this Court in Satish Chander Anand v. Union of India [(1953) 1 SCC 420: 1953 SCR 655]. Likewise the termination of service by compulsory retirement in terms of a specific rule regulating the conditions of service is not tantamount to the infliction of a punishment and does not attract Article 311(2), as has also been held by this Court in Shyam Lal v. State of Uttar Pradesh [(1954) 1 SCC 572: (1955) 1 SCR 26]. In either of the two abovementioned cases the termination of the service did not carry with it the penal consequences of loss of pay, or allowances under Rule 52 of the Fundamental Rules. It is true that the misconduct, negligence, inefficiency or other disqualification may be the motive or the inducing factor which influences the Government to take action under the terms of the contract of employment or the specific service rule, nevertheless, if a right exists, under the contract or the rules, to terminate the service the motive

operating on the mind of the Government is, as Chagla, C.J., has said in Shrinivas Ganesh v. Union of India, [58 Bom LR 673: AIR 1956 Bom 455] wholly irrelevant. In short, if the termination of service is founded on the right flowing from contract or the service rules then, prima facie, the termination is not a punishment and carries with it no evil consequences and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a punishment and the requirements of Article 311 must be complied with. As already stated if the servant has got a right to continue in the post, then, unless the contract of employment or the rules provide to the contrary, his services cannot be terminated otherwise than for misconduct, negligence, inefficiency or other good and sufficient cause. A termination of the service of such a servant on such grounds must be a punishment and, therefore, a dismissal or removal within Article 311, for it operates

as a forfeiture of his right and he is visited with the evil consequences of loss of pay and allowances. It puts an indelible stigma on the officer affecting his future career. A reduction in rank likewise may be by way of punishment or it may be an innocuous thing. If the government servant has a right to a particular rank, then the very reduction from that rank will operate as a penalty, for he will then lose the emoluments and privileges of that rank. If, however, he has no right to the particular rank, his reduction from an officiating higher rank to his substantive lower rank will not ordinarily be a punishment. But the mere fact that the servant has no title to the post or the rank and the Government has, by contract, express or implied, or under the rules, the right to reduce him to a lower post does not mean that an order of reduction of a servant to a lower post or rank cannot in any circumstances be a punishment. The real test for determining whether the reduction in such cases is or is not by way of punishment is to find out if the order for the reduction also visits the servant with any penal consequences. Thus if the order entails or provides for the forfeiture of his pay or allowances or the loss of his seniority in his substantive rank or the stoppage or postponement of his future chances of promotion, then that circumstance

may indicate that although in form the Government had purported to exercise its right to terminate the employment or to reduce the servant to a lower rank under the terms of the contract of employment or under the rules, in truth and reality the Government has terminated the employment as and by way of penalty. The use of the expression "terminate" or "discharge" is not conclusive. In spite of the use of such innocuous expressions, the court has to apply the two tests mentioned above, namely, (1) whether the servant had a right to the post or the rank, or (2) whether he has been visited with evil consequences of the kind hereinbefore referred to? If the case satisfies either of the two tests then it must be held that the servant has been punished and the termination of his service must be taken as a dismissal or removal from service or the reversion to his substantive rank must be regarded as a reduction in rank and if the requirements of the rules and Article 311, which give protection to government servant have not been complied with, the termination of the service or the reduction in rank must be held to be wrongful and in violation of the constitutional right of the servant."

8. Considering the overall facts and circumstances of the case as well as after hearing learned counsel for the parties as also

considering the facts of the case in the light of abovequoted judgments, I am of the view that the impugned notice of termination dated 19.1.2023 has been passed in a very harsh manner without granting opportunity of hearing to the petitioner. If any stigmatic order is to be passed then the foremost thing which has to be done by the employer is to give a notice levelling specific allegation against the petitioner and by holding an enquiry after giving due opportunity of hearing to the petitioner. The order, if any, can be passed, it may be passed, after holding enquiry and by giving due opportunity of hearing to the employee/delinquent which is lacking in this case.

9. Taking into consideration of the law laid down by the Hon'ble Supreme Court as well as by this Court and for the reasons and discussions made here-in-above, the impugned notice of termination dated 19.1.2023 (Annexure P/1) is hereby quashed. The petitioner is entitled for all the benefits following from quashment of impugned notice of termination 19.1.2023, except back wages. However, liberty is reserved to the respondent authorities to hold proper enquiry, if so advised.
10. In the result, the writ petition is **allowed** with the aforesaid observations/directions. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge