

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 2597 of 2023****Order Reserved on: 14.01.2026****Order Delivered on : 28.2.2026**

- Smt. Shipra Mandal W/o Shri Ranjan Kumar Mandal Aged About 37 Years Resident Of P.V.-73, Pakhanjur, Post- Pakhanjur, Tehsil- Pakhanjur, District : Kanker, Chhattisgarh.

... Petitioner(s)**versus**

1. State Of Chhattisgarh Through The Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.).
2. The Commissioner Bastar Division, Jagdalpur, District : Bastar(Jagdalpur), Chhattisgarh.
3. The Collector District - Narayanpur (C.G.).
4. Chief Executive Officer Janpad Panchayat (Wrongly Mentioned As Zila Panchayat), Office Orchha, District : Narayanpur, Chhattisgarh.

**... Respondent(s)**

For Petitioner	:	Ms. Sharmila Singhai, Sr. Advocate assisted by Ms. Kanchan Karwani, Advocate
For Respondent/ State	:	Mr. Devesh G. Kela, Panel Lawyer.
For Respondent No. 4	:	Mr. Himanshu Yadu, Advocate holding brief on behalf of Ms. Astha Shukla, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad**C.A.V. Order**

1. The present petition is directed against the order dated 28.02.2023 (Annexure P/1), whereby the appeal preferred by the petitioner has been dismissed, without appreciating the illegality and arbitrariness committed by respondent Nos. 3 and 4, and in gross violation of the principles of natural justice, hence, this writ petition is preferred seeking following reliefs :

“10.1 This Hon'ble Court may kindly be pleased to call the entire records of subject matter of the present case, from the respondents.

10.2 This Hon'ble Court may kindly be



pleased to quash/set- aside the impugned order dated 28.02.2023 passed by respondent no. 2 (Annexure P/1) and further be pleased to direct the respondent authorities allow the petitioner to resume her duties on the post of Shikshakarmi.

10.3 Any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given.”

2. Facts of the case, as canvased, are that the petitioner was initially appointed to the post of Shikshakarmi Grade-III by the Chief Executive Officer, Janpad Panchayat, Narayanpur, vide appointment order dated 16.06.2010. A perusal of the appointment order clearly reveals that the service conditions of the petitioner are governed by the provisions of the Chhattisgarh Panchayat Shikshakarmi (Recruitment & Conditions of Service) Rules, 2007 (hereinafter referred to as “Rules, 2007”). Subsequently, in the year 2013, the services of the petitioner were regularized, and she was appointed as Assistant Teacher (Panchayat) and posted at Primary School, Gumiyabeda, District Narayanpur. It is submitted that unfortunately, in the year 2014,



the petitioner suffered from a serious and prolonged illness, which continued intermittently till the year 2019. Owing to her deteriorating health condition, she was compelled to remain under continuous medical treatment and was unable to attend her duties during the said period. The petitioner was regularly examined and treated by the Medical Officer, Community Health Centre, Bhopalpattnam, District Bijapur. A perusal of the said certificates clearly establishes their authenticity and the genuineness of the petitioner's illness. For the first time, a show cause notice dated 11.06.2018 was issued to the petitioner. Due to her serious health condition, she could not submit a reply within the stipulated time. However, upon improvement in her health, the petitioner submitted a detailed reply on 29.07.2019, enclosing all relevant medical certificates covering the period from 2014 to 2019. In her reply, the petitioner specifically explained that she had remained absent from duties w.e.f. 16.06.2014 solely on account of her medical condition and further assured the authorities that her health had improved and she was willing and able to rejoin her duties. Thereafter, vide letter dated 17.12.2020, the Block Education Officer called upon the petitioner to submit a further explanation along with a medical certificate issued by a Medical Board. From the said communication, it is evident that the Block Education Officer was not satisfied with the reply already submitted by the petitioner and sought additional medical verification, despite the fact that authentic medical certificates had



already been placed on record. To the utter shock and surprise of the petitioner, she was served with an order of termination dated 24.12.2021. In the said order, it was stated that since the petitioner had allegedly failed to submit replies to various notices, a proposal for termination of her services had been passed in the General Body Meeting of Janpad Panchayat, Orchha dated 08.04.2021. Consequently, by placing reliance on the Circular dated 21.12.2020 and Rule 11 of the Chhattisgarh Shikshak (Panchayat) Samvarg (Recruitment & Service Conditions) Rules, 2012, the services of the petitioner were terminated. It is submitted that the said termination order is ex facie illegal and arbitrary, as the services of the petitioner are governed by the Rules, 2007, whereas the impugned order has been passed under the Rules of 2012, which are wholly inapplicable to the petitioner's case. Being aggrieved by the illegal and arbitrary termination order dated 24.12.2021, the petitioner preferred an appeal before the Collector, Narayanpur (Respondent No.3). After granting an opportunity of hearing to the parties, the learned Collector, vide order dated 25.03.2022, dismissed the appeal. The learned Collector erroneously held that sufficient opportunities had been granted to the petitioner and further observed that her conduct amounted to indiscipline in violation of Civil Services Conduct Rules. Against the order passed by the learned Collector, the petitioner preferred a second appeal before the Commissioner, Bastar Division, Jagdalpur. After hearing the



parties, the learned Commissioner, vide impugned order dated 28.02.2023, dismissed the second appeal and affirmed the findings recorded by the learned Collector, holding the termination to be just and proper. Being left with no other efficacious alternative remedy, the petitioner has been constrained to invoke the extraordinary jurisdiction of this Court by filing the present petition.

3. Learned counsel for the petitioner submits that the impugned order dated 28.02.2023 passed by the learned Commissioner, Bastar Division, Jagdalpur (Annexure-P/1) is ex facie illegal, arbitrary, erroneous, and discriminatory in nature. The said order has been passed without proper appreciation of facts and settled principles of law and, therefore, is liable to be set aside on this ground alone. It is vehemently contended that while deciding the second appeal, the learned Commissioner has completely overlooked a fundamental and crucial aspect of the matter, namely that the petitioner was appointed and governed under the Chhattisgarh Panchayat Shikshakarmi (Recruitment & Conditions of Service) Rules, 2007. However, the termination order dated 24.12.2021 has been passed by invoking the provisions of the Chhattisgarh Shikshak (Panchayat) Samvarg (Recruitment & Service Conditions) Rules, 2012, which are wholly inapplicable to the petitioner. The action of terminating the petitioner's services under an inapplicable statutory framework is patently illegal, arbitrary, and unsustainable in the eyes of law. Learned counsel



further submits that the learned Commissioner has failed to appreciate that no proper or effective opportunity of hearing was ever granted to the petitioner before passing the proposal for termination in the General Body Meeting of Janpad Panchayat, Orchha, District Narayanpur. The decision affecting the civil rights of the petitioner was taken behind her back, rendering the entire proceedings vitiated. It is further submitted that no notice whatsoever was issued to the petitioner regarding the General Body Meeting dated 08.04.2021. In absence of any prior intimation or opportunity to present her case, an ex parte proposal for termination of the petitioner from the post of Shikshakarmi Grade-III was passed. Such action is in blatant violation of the principles of natural justice, particularly the rule of audi alteram partem. Learned counsel submits that the learned Commissioner has also failed to properly consider the Circular dated 21.12.2020, which clearly mandates that in cases of long unauthorised absence, disciplinary proceedings must be initiated. In the present case, admittedly, no disciplinary enquiry was ever initiated, no charge-sheet was served, and no opportunity was afforded to the petitioner to explain the allegations against her. Instead, the extreme penalty of termination was imposed solely on the basis of a proposal passed in a General Body Meeting, which is wholly impermissible in law. It is further submitted that while passing the order of termination, the respondent authorities have completely ignored the fact that the petitioner had submitted her reply to the



show cause notice along with medical certificates covering the period from 2014 to 2019. The said certificates were duly issued by the Medical Officer, Community Health Centre, Bhopalpattnam, District Bijapur, and their authenticity has never been disputed. In such circumstances, the authorities were required to take a compassionate and sympathetic view rather than resorting to a harsh and disproportionate punishment.

4. Learned counsel further contended that that the punishment imposed upon the petitioner is grossly disproportionate to the alleged misconduct, especially in view of her prolonged and genuine medical condition. The petitioner's absence was neither wilful nor deliberate but was compelled by circumstances beyond her control. The doctrine of proportionality has been completely ignored by both the authorities below. It is contended that the learned Commissioner has overlooked the fact that the petitioner was never afforded an opportunity of hearing prior to the General Body Meeting, wherein the proposal for her termination was passed. Such action strikes at the very root of fair play and justice and is contrary to settled legal principles governing service jurisprudence. Learned counsel further submits that the petitioner's services had already been regularised as Assistant Teacher (Panchayat) in the year 2013. Once an employee attains regular status, her services cannot be terminated without conducting a full-fledged departmental enquiry as per the



applicable service rules. In the present case, no such enquiry was conducted, making the impugned termination order legally untenable. It is not a case where the petitioner had concealed her illness or failed to inform the authorities. As early as September 2014, the petitioner had duly informed the Block Education Officer, Janpad Panchayat Orchha, and the Chief Executive Officer, Narayanpur, about her illness through speed post. This fact has been completely ignored by both the appellate authorities. Learned counsel submits that both the authorities below have failed to appreciate the documentary evidence filed by the petitioner in its correct perspective and have mechanically upheld the termination without assigning cogent and legally sustainable reasons. Even a contractual employee is entitled to a proper departmental enquiry before passing any stigmatic or punitive order, as held by the Hon'ble Supreme Court. In the present case, the petitioner being a regular employee was entitled to a higher degree of procedural protection. The impugned termination order has been passed in gross violation of Article 311(2) of the Constitution of India, as no reasonable opportunity of hearing was provided and no enquiry was conducted to establish the alleged misconduct. Learned counsel also submits that while imposing the major penalty of termination, the respondent authorities have completely ignored the provisions of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, particularly Rule 7, which prescribes the mandatory



procedure for imposing major penalties. Non-compliance with the statutory procedure renders the impugned order void ab initio. In support of the aforesaid submissions, learned counsel for the petitioner has relied upon the judgments of Hon'ble Supreme Court in the matters of **Sandeep Kumar vs. G.B. Pant Institute of Engineering and Technology Ghurdauri and Others**, reported in **2024 SCC OnLine SC 541**, **Krishna Kumar Kosaria vs. State of Chhattisgarh, Writ Appeal No. 450 of 2021**, **Chhel Singh vs. MGB Gramin Bank, Pali and Others**, reported in **(2014) 13 SCC 166**. On the basis of the aforesaid facts, submissions, and settled position of law, it is prayed that this Court may be pleased to quash the impugned orders and grant appropriate relief to the petitioner in the interest of justice.

5. Learned State counsel as also the learned counsel for the respondent No. 4 jointly submit that the petitioner has challenged the impugned order dated 28.02.2023 mainly on the grounds that no proper opportunity of hearing was granted to her and that the learned Commissioner failed to consider the medical certificates filed by the petitioner along with her reply to the show cause notice. It is submitted that the said contentions are misconceived, factually incorrect, and contrary to the record. At the very outset, it is submitted that the present writ petition, as framed and filed, is devoid of any merit or substance and is liable to be dismissed at the threshold. The impugned order has been passed after due



consideration of all relevant facts, documents, and applicable rules, and does not suffer from any illegality, arbitrariness, or procedural infirmity. It is an admitted and undisputed fact that the petitioner was appointed on the post of Shiksha Karmi Grade-III and was posted at Primary School, Gudarapara (Garpa), vide order dated 16.06.2010 issued by the respondent No.4. While posted at the said school, the petitioner proceeded on leave without submitting any leave application and without obtaining prior permission from the competent authority. The petitioner remained absent from her duties unauthorizedly with effect from 16.06.2014 onwards. Learned counsel submits that upon noticing the prolonged unauthorized absence of the petitioner, the competent authority promptly issued a show cause notice dated 10.01.2017, calling upon the petitioner to submit her explanation within three days regarding her absence from duty. Despite service of the said notice, the petitioner failed to submit any explanation or disclose any reason for her continued absence. Subsequently, another show cause notice dated 10.03.2017 was issued to the petitioner, calling upon her to explain as to why proceedings for termination of her services should not be initiated by placing her case before the General Administration Committee. Even to this notice, the petitioner did not submit any reply. It is further submitted that since the petitioner continued to remain absent from duty unauthorizedly for a prolonged period, yet another show cause notice dated 11.06.2018 was issued to her,



requiring her to submit an explanation within three days as to why disciplinary proceedings should not be initiated and her services terminated. Learned counsel submits that after a lapse of more than one year, the petitioner, for the first time, submitted a reply dated 29.07.2019, wherein she herself admitted her unauthorized absence from duty with effect from 16.06.2014. Along with the said reply, the petitioner for the first time enclosed medical certificates. The said medical certificates were forwarded to the Block Education Officer, Orchha, for verification and submission of a report in accordance with law. Upon examination of the records and documents, several discrepancies were noticed. The petitioner claimed absence from duty from 16.06.2014, whereas the medical certificates submitted by her pertained to the period from 15.08.2014 to 29.07.2019. Further, a fitness certificate dated 29.07.2019 was allegedly issued by the Medical Officer, CHC Bhopalpattanam, whereas the distance between the said CHC and the office of the Chief Executive Officer, Janpad Panchayat Orchha, is approximately 400 kilometers, making it improbable for the petitioner to submit the same on the very same date. In view of these discrepancies, the Block Education Officer, Orchha, issued a letter dated 25.08.2019 directing the petitioner to submit clarification on eight specific points along with a Medical Board certificate, as the petitioner had remained absent for more than five years. Despite this, the petitioner deliberately chose not to respond. It is submitted that the said letter dated 25.08.2019 was



followed by another letter dated 17.12.2020, directing the petitioner to appear before the office along with explanation on eight points and a Medical Board certificate within one week, failing which termination proceedings would be initiated. Once again, the petitioner failed to submit any reply or comply with the directions. From the aforesaid sequence of events, it is abundantly clear that the petitioner was afforded more than adequate opportunities to explain her prolonged unauthorized absence, but she failed to submit any satisfactory explanation or comply with the directions issued by the authorities.

6. Learned counsel further submits that during the pendency of the matter, the Director, Panchayat, issued instructions dated 21.12.2020 regarding disciplinary action against Teacher (Panchayat) who remain absent from duty for prolonged periods. The said instructions provided that upon receipt of a proposal from the General Administration Committee of the concerned Zila or Janpad Panchayat, appropriate action shall be taken. In compliance with the aforesaid instructions and considering the prolonged unauthorized absence of the petitioner and her failure to submit satisfactory explanation, the matter was placed before the General Administration Committee of Janpad Panchayat, Orchha, in its meeting dated 08.04.2021. The Committee unanimously resolved to terminate the services of the petitioner, and the said resolution was duly implemented by the respondent



No.4 by issuing the termination order dated 24.12.2021. Learned counsel submits that the termination order was assailed by the petitioner before the Collector, District Narayanpur, under the provisions of the Chhattisgarh Panchayat (Appeal and Revision) Rules, 1995. After providing due opportunity of hearing and considering the material on record, the learned Collector found no merit in the appeal and dismissed the same vide order dated 25.03.2022. Thereafter, the petitioner preferred a second appeal before the learned Commissioner, Bastar Division, Jagdalpur, under Section 91 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. The learned Commissioner, after hearing the petitioner and after appreciating all documents and relevant circulars, including the circular dated 22.03.2018 issued by the Department of Finance, dismissed the appeal. The learned Commissioner has rightly observed that where a government servant remains absent from duty unauthorizedly for more than three years, it shall be presumed that such employee has voluntarily abandoned service. In the present case, the petitioner remained unauthorizedly absent for more than five years and failed to submit any satisfactory explanation despite repeated opportunities. Thus, the termination of the petitioner is legal, justified, and in accordance with law. In view of the aforesaid facts and settled position of law, it is submitted that the impugned order dated 28.02.2023 is just, proper, and legal and does not suffer from any infirmity. The present writ petition, being devoid of merit and substance,



deserves to be dismissed at the threshold.

7. I have heard learned counsel for the parties, perused the impugned orders, and examined the record with due care.
8. The question that falls for consideration is whether the termination of the petitioner satisfies the requirements of Rule 7 of the Chhattisgarh Panchayat (Discipline and Appeal) Rules, 1999 ?
9. Rule 5(b)(vi) of the Rules of 1999 clearly prescribes removal from service as a major penalty. Rule 7 mandates that no major penalty can be imposed without a formal enquiry. Such an enquiry necessarily requires framing of definite charges, communication of allegations to the delinquent employee, opportunity to inspect records, oral hearing with right to cross-examine witnesses, submission of enquiry report, and supply of findings to the delinquent for his representation before passing of final orders. Rule 5 and Rule 7 of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 is quoted below for ready reference :

5. Penalties. - *The following penalties may, for good and sufficient reasons, and as hereinafter provided be imposed on a member of the Panchayat Service namely :-*



xxx

xxx

xxx

(b) Major Penalties-

xxx

xxx

xxx

(vi) Removal from service not disqualifying for future employment;

7. Procedure for imposing major penalties. - *(1) No order, imposing on a member of the Panchayat Service, any of the penalties specified in clauses (iv) to (via) of Rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided.*

(2) When an order for formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, alongwith the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified a written statement of defence and also to state whether he desires to be heard in



person.

(3)The person against whom inquiry is to be held shall, for the purpose of preparing to defence, be permitted to inspect and take extracts from such records as he may specify :

Provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the Enquiry' Officer such records are not relevant for the purpose or it is against the public interest to allow his access thereto.

(4)On receipt of the written statement of defence or if any such statement is not received within the time specified, the disciplinary authority may himself enquire into such of the charges as are not admitted or appoint an Enquiry Officer to hold the inquiry and forward to him his report and, if advised, his recommendation alongwith all the inquiry papers.

(5)The disciplinary authority may



nominate any person to present the case in support of the charges before the Enquiry Officer. The member of the Panchayat Service may present his case with the assistance of any other Panchayat Servant of State Government Servant approved by the Enquiry Officer but may not engage a legal practitioner for the purpose, unless the person nominated by the disciplinary authority as aforesaid is a legal practitioner or unless the disciplinary authority having regard to the circumstances of the case so permits.

(6) If the servant of the Panchayat Service desires to be heard in person, he shall be so heard. If he so desires or if the disciplinary authority so directs, an oral enquiry shall be held by the Enquiry Officer. At such inquiry, evidence shall be heard as to such of the allegations as are not admitted and the person charged shall be entitled to cross examine the witness, to give



evidence in person, to produce documentary evidence, if any and to have such witness called as he may wish :

Provided that the Enquiry Officer may, for reasons to be recorded in writing, refuse to call a witness.

(7)At the conclusion of the inquiry, the Enquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with reasons therefor.

(8)The proceedings conducted against the persons charged shall contain a sufficient record of :-

(i)the charges framed against such person and the statement of allegations;

(ii)the written statement of defence if any;

(iii)the oral evidence taken in the course of the inquiry;

(iv)the documentary evidence considered in the course of the



inquiry;

(v)the orders, if any, made by the Enquiry Officer or the disciplinary authority, as the case may be, with regard to the inquiry;

(vi)a report setting out the findings on each charge and the reasons therefor.

(9)The Enquiry Officer, if he is other than the disciplinary authority, shall submit the records of the proceedings mentioned in clause (8) above to the disciplinary authority without recommendation relating to the penalty to be imposed. The disciplinary authority shall consider the record of the enquiry and its findings on each charge, having regard to the findings on the charges and the record (if the proceedings) if he is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 5 should be imposed, it shall furnish to the person charged a copy of the report of the Enquiry Officer, and where the disciplinary authority is



not the Enquiry Officer a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Enquiry Officer.

(10)The disciplinary authority shall consider the representation, if any, made by the person charged in response to the notice and determine the penalty, if any, should be imposed and shall pass appropriate order on the case.

(11)The orders passed by the disciplinary authority shall be communicated to the member of the Panchayat Service, who shall also be supplied with a copy of the report of the Enquiry Officer and where disciplinary authority is not the Enquiry Officer, a statement of its findings together with the brief reasons for disagreement, if any, with the findings of the Enquiry Officer, unless they have already been supplied to the person charged.

10. It is not in dispute that the petitioner was initially appointed as



Shikshakarmi Grade-III vide order dated 16.06.2010 and that her service conditions were governed by the Chhattisgarh Panchayat Shikshakarmi (Recruitment & Conditions of Service) Rules, 2007. It is also an admitted position that her services were regularised in the year 2013 and that she was thereafter working as Assistant Teacher (Panchayat). Once the services of the petitioner stood regularised, she acquired a substantive status, and her services could not have been terminated except by following the procedure prescribed under the applicable statutory rules and in consonance with the principles of natural justice. This Court finds substantial force in the contention of learned counsel for the petitioner that the termination order dated 24.12.2021 has been passed by invoking Rule 11 of the Chhattisgarh Shikshak (Panchayat) Samvarg (Recruitment & Service Conditions) Rules, 2012, whereas admittedly the petitioner was governed by the Rules, 2007. The action of the respondents in terminating the services of the petitioner under a statutory framework which was admittedly inapplicable to her case goes to the root of the matter and renders the impugned termination order legally unsustainable. An order passed under an inapplicable rule is void ab initio and cannot be sustained merely on the basis of alleged misconduct.

11. Further, this Court is unable to accept the contention of the respondents that the petitioner's services could be terminated solely on the basis of a resolution passed by the General Body /



General Administration Committee of the Janpad Panchayat. The record clearly reflects that no charge-sheet was ever issued to the petitioner, no regular departmental enquiry was initiated, and no enquiry officer was appointed. Even assuming that the petitioner remained absent for a prolonged period, such absence could only have been dealt with by initiating disciplinary proceedings as contemplated under the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, particularly where the proposed penalty was a major penalty of removal from service.

12. This Court also finds merit in the submission that no notice whatsoever was issued to the petitioner informing her about the proposed consideration of her case in the General Body Meeting dated 08.04.2021. The decision affecting the civil rights and livelihood of the petitioner was taken behind her back, without affording her any opportunity of personal hearing at that stage. Such action is in clear violation of the principles of natural justice, particularly the rule of audi alteram partem, which mandates that no person shall be condemned unheard. The reliance placed by the respondents on the circulars dated 22.03.2018 and 21.12.2020 also does not advance their case. A circular cannot override statutory rules. Even the said circulars contemplate initiation of disciplinary proceedings in cases of long unauthorised absence.
13. In the present case, admittedly, no disciplinary enquiry as



mandated under the applicable rules was ever conducted. Termination of a regular employee without conducting a full-fledged enquiry, without framing charges, and without affording an opportunity to lead evidence or cross-examine witnesses is impermissible in law. This Court further finds that the medical certificates submitted by the petitioner, though disputed by the respondents, were never subjected to verification by following a fair and transparent procedure in the presence of the petitioner. Even if the respondents had doubts regarding the genuineness or sufficiency of the medical documents, the proper course was to hold a disciplinary enquiry and allow the petitioner to explain her case, rather than straightaway imposing the extreme penalty of termination. The doctrine of proportionality has also been ignored by the authorities below. The petitioner's absence, as pleaded, was on account of prolonged illness and not a case of wilful abandonment of service. Whether the absence was justified or not is a matter requiring adjudication in a properly conducted enquiry. Such a determination could not have been made unilaterally by the employer by presuming voluntary abandonment. This Court finds that both the appellate authorities, namely the Collector and the Commissioner, have failed to examine these crucial legal infirmities. They have mechanically upheld the termination order without addressing the core issue of non-compliance with the mandatory statutory procedure and violation of principles of natural justice. The impugned order dated 28.02.2023 passed by



the learned Commissioner, therefore, cannot be sustained in the eyes of law.

14. A Division Bench of this Court, in **Rooplal Nayak v. State of Chhattisgarh and Others**, reported in **2006 (4) M.P.H.T. 99 (C.G.)**, has clearly held that no major penalty, as prescribed under Rule 5(b)(iv) of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, can be imposed on a member of the Panchayat service governed by the said Rules without conducting a regular departmental enquiry in accordance with Rule 7 thereof.
15. In an identical petition coordinate bench of this Court has passed an order in case of **Prakash Chand Soni Vs. State of Chhattisgarh and others** in **WPS No.1846/2011** on **15/07/2015** and it was held as under:-

“(3)The short issue arisen for determination is - whether services of a Panchayat Secretary can be dispensed with or terminated without conducting any enquiry as envisaged under Rule 7 of the C.G. Panchayat Service (Discipline and Appeal) Rules, 1999 (in short "the Rules, 1999")?

(4)Admittedly, on certain allegations, an enquiry was conducted against the



petitioner and eventually, an enquiry report was submitted vide Annexure R/4 and thereafter, show cause notice was issued to him on 28.04.2008 vide Annexure R/3, therefore before removing him the principles of natural justice have been complied with. However, at the same time, it is to be seen that a Division Bench of this Court in the matter of Rooplal Nayak vs. State of Chhattisgarh and others, 2006(4) M.P.H.T. 99 (C.G.) has held that any of the major penalty prescribed under Rule 5(b) (iv) of the Rules, 1999 cannot be imposed on a member of Panchayat service to whom the said Rules are applicable without conducting regular Departmental Enquiry as envisaged under 7 of the Rules, 1999.

(5)In the case at hand, an enquiry officer was appointed, who conducted some sort of enquiry and submitted an enquiry report, however, that runs short of a departmental enquiry as contemplated under Rule 7. The said



provisions uses the words "formal inquiry" with further stipulation that when an order for 'formal enquiry has been made, the disciplinary authority shall frame Definite charges, communicate the same to the delinquent along with the statement of allegations, requiring him to submit within the specified time a written statement of defence and also to state whether he desires to be heard in person. Thereafter, the defence is required to be permitted to inspect and take extracts from the records, which can be refused for reasons to be recorded in writing. On submission of reply by the delinquent, the disciplinary authority may himself enquire or appoint an enquiry officer. Appointment of Presenting Officer and seeking assistance of some other officers by the delinquent is also contemplated therein. The enquiry officer is also enabled to record evidence and thereafter, at the conclusion of the enquiry, the enquiry



officer is supposed to prepare enquiry report, the copy of which is required to be furnished to the delinquent. Thus, the 'formal inquiry' envisaged under the Rules is akin to the procedure prescribed for a regular enquiry under Rule 14 of the C.G. Civil Services (Classification, Control and Appeal) Rules, 1966."

16. The Hon'ble Supreme Court in **Kalpraj Dharamshi v. Kotak Investment Advisors Ltd.**, reported in **(2021) 10 SCC 401** has further held that an action taken in breach of natural justice or *de hors* jurisdiction warrants interference under Article 226 of the Constitution.
17. The Hon'ble Supreme Court in the matter of **Sandeep Kumar vs. GB Pant Institute of Engineering and Technology Ghurdauri & others, 2024 SCC Online SC 541**, the Hon'ble Supreme Court has observed as under:-

"19. In this background, we are of the firm view that the termination of the services of the appellant without holding disciplinary enquiry was totally unjustified and dehors the requirements of law and in



gross violation of principles of natural justice. Hence, the learned Division Bench of the High Court fell in grave error in dismissing the writ petition filed by the appellant on the hypertechnical ground that the minutes of 26th meeting of the Board of Governors dated 16th June, 2018 had not been placed on record.

20. *As a consequence, we pass the following directions:—*

(i) The impugned judgments dated 4th August, 2022 and 21st February, 2023 passed by the High Court are quashed and set aside.

(ii) The order dated 19th May, 2022 whereby, the services of the appellant on the post of Registrar of the Institute were terminated is also declared to be illegal and as a consequence, the same is quashed and set aside.

(iii) That the appellant shall forthwith be reinstated on the post of Registrar of G.B. Pant Institute of Engineering and Technology, Ghurdauri. He shall be entitled to all consequential benefits.

(iv) The respondent-Institute is left at liberty to



conduct disciplinary proceedings against the appellant as per law, if so desired.”

18. The Hon’ble Supreme Court in the matter of ***Chhel Singh vs. MGB Gramin Bank, Pali and others, (2014) 13 SCC 166***, the Hon’ble Supreme Court has observed as under:-

“9. The learned counsel for the appellant while placing reliance on the inquiry report and finding of the learned Single Judge submitted that the inquiry was conducted in violation of principles of natural justice and hence the learned Single Judge rightly directed the reinstatement of the appellant. Whereas according to the learned counsel for the respondent Bank, the Division Bench rightly set aside the order of reinstatement and remitted the matter for fresh enquiry.

10. After giving our careful consideration to the facts and circumstances of the case and the submission made by the learned counsel for the parties, we are of the view that the Division Bench was wrong in setting aside the order of reinstatement. The Division Bench has accepted that the inquiry stood vitiated by disallowing the request of the appellant to summon



the rest of the five witnesses. For the said reason, the Division Bench has not interfered with such part of the finding and order passed by the learned Single Judge whereby the impugned order of termination dated 17-10-1994 and the appellate authority order dated 26-12-1994 were quashed. The order of termination being quashed by the High Court, in absence of any observation and grounds to refuse the reinstatement, the appellant automatically stood reinstated. Without reinstatement in service, the question of further inquiry does not arise. There was no occasion for the Division Bench of the High Court to direct further inquiry without reinstatement of the appellant.

12. From a plain reading of the charges we find that the main allegation is absence from duty from 11-12-1989 to 24-10-1990 (approximately 10½ months), for which no prior permission was obtained from the competent authority. In his reply, the appellant has taken the plea that he was seriously ill between 11-12-1989 and 24-10-1990, which was beyond his control; he never intended to contravene any of the provisions of the service regulations. He submitted the copies of medical certificates issued by doctors in support of his claim after rejoining the post. The



medical reports were submitted after about 24 days. There was no allegation that the appellant's unauthorised absence from duty was wilful and deliberate. The inquiry officer has also not held that the appellant's absence from duty was wilful and deliberate. It is neither a case of the disciplinary authority nor the inquiry officer that the medical reports submitted by the appellant were forged or fabricated or obtained for any consideration though he was not ill during the said period. In absence of such evidence and finding, it was not open to the inquiry officer or the disciplinary authority to disbelieve the medical certificates issued by the doctors without any valid reason and on the ground of 24 days' delay."

19. It is a settled position of law that unless and until the procedure prescribed under the relevant service rules is strictly followed, an order of removal or termination from service cannot be said to be in consonance with law. Any action taken in breach of the prescribed procedure is arbitrary and liable to be set aside.
20. In view of the foregoing discussion, this Court is of the considered opinion that the termination of the petitioner is vitiated on account of non-compliance with the mandatory statutory procedure and



violation of the principles of natural justice. Consequently, the impugned order dated 28.02.2023 passed by the learned Commissioner, Bastar Division, Jagdalpur, as well as the orders dated 25.03.2022 passed by the Collector, Narayanpur, and 24.12.2021 terminating the services of the petitioner, are hereby set aside. However, it is clarified that this Court has not expressed any opinion on the merits of the allegations levelled against the petitioner.

21. The respondents are at liberty to proceed afresh against the petitioner strictly in accordance with law, after granting due and reasonable opportunity of hearing to the petitioner and by following the procedure prescribed under the applicable statutory rules. In the meanwhile, the petitioner shall be reinstated in service forthwith. Such reinstatement shall be subject to the outcome of the fresh proceedings, if any, initiated by the respondents in accordance with law.
22. Accordingly, the writ petition is **allowed**.

Sd/-

(Amitendra Kishore Prasad)

Judge

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
14.1.2026	28.2.2026	-	28.2.2026

Raghu Jat