



(2025:HHC:41129)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CMP(M) No.1811 of 2025 and
LPA No.816 of 2025
Decided on: 28.11.2025**

State of Himachal Pradesh & Others **....Appellants**

Versus

Arun Kang and Others **....Respondents**

Coram

***The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
The Hon'ble Mr. Jiya Lal Bhardwaj, Judge.***

Whether approved for reporting?¹

For the Appellants : Mr. Sidharth Jalta, Deputy
Advocate General.

G.S. Sandhawalia, Chief Justice (Oral).

CMP(M) No.1811 of 2025.

Keeping in view the averments made in the application, duly supported by the affidavit of the official, delay of 12 days in filing the appeal is condoned.

2. The application stands disposed of.

LPA No.816 of 2025.

3. Consideration in the present Letters Patent Appeal is sought to the judgment passed by the learned Single Judge in ***CWP No.4886 of 2022*** titled ***Arun Kang Vs. State of H.P. & Others***, decided on 20.05.2025, whereby the termination order

¹ Whether reporters of Local Papers may be allowed to see the judgment?



dated 14.07.2022 (**Annexure P-11**) of the respondents-employee herein was quashed and set aside and he had been reinstated in service.

4. The learned Single Judge has carefully protected the interest of the State to the extent that for the period during which he remained out of service as a consequence of termination order was to be notionally counted towards his service benefits only and State was given liberty to hold inquiry against the petitioner in accordance with law.

5. The reasons for setting aside the termination order was that it was stigmatic in nature and no departmental proceedings had been initiated before passing of the said order and therefore even in cases of contractual appointments, the principle's of natural justice as such could not have been brushed aside by the State.

6. The learned Single Judge had relied upon the judgment of the Coordinate Bench of this Court in **CWP No.1666 of 2017** titled **State of H.P. & Ors. Vs. Dr. Parvesh Thakur**, decided on 24.08.2020 and reproduced the relevant portion of the said judgment.

7. Reliance was also placed upon the judgments of the Apex Court in **U.P. State Road Transport Corporation and**



Others Vs. Brijesh Kumar and Another (2024) SCC OnLine SC 282 and Swati Priyadarshini Vs. State of Madhya Pradesh and Others (2024) SCC OnLine SC 2139.

8. Counsel for the appellants-State has vehemently submitted while referring to the alleged admission made by the employee as such that he had admitted the fact that there was deficiency in the work and in such circumstances the termination order was not liable to be interfered.

9. We have gone through the termination order passed by the Deputy Commissioner-cum-Chief Executive Officer, DRDA Una, District, Una, Himachal Pradesh, which would go on to show that the same cannot be sustained in any manner. The appellants-State cannot be allowed to dominate the proceedings and force firstly the employee to deposit the amount for the shortcomings of the work and, thereafter direct the order of termination while initially noting in its own communication that the disciplinary action was liable to be taken.

10. Having failed to do so, the learned Single Judge was well justified as such to come to the conclusion that the procedure prescribed for dispensing with the services as such having not been adhered to the order was liable to be quashed and the necessary liberty has been granted as such to initiate



fresh departmental proceedings. The impugned order would go on to show that on account of the complaint as such for re-assessment of the construction work had been made against the employee who was working as a Junior Engineer on contractual basis. The work had been assessed at Rs.3,57,271/- and in the first instance after inspection, the work had been found carried out only for worth Rs.1,78,194/-.

11. Resultantly, a show-cause notice dated 04.11.2019 (**Annexure A-X**) had been issued and apparently even in his reply, the Official had attributed the variation to the inaccurate measurement of earthen work while re-evaluation. A perusal of the show-cause notice issued would go on to show that there are specific directions by the then Deputy Director-cum-Project Officer, District Rural Development Agency, Una, Himachal Pradesh, which would go on to show that the show-cause notice in the form of disciplinary proceedings mentioned why proceedings should not be initiated against him for violation of rules/dereliction of duty and the reply as such was called for and if no reply was filed, the disciplinary proceedings as per CCS (CCA) Rules would be initiated accordingly.

12. Apparently, as noticed there was a valid stand as such for charge-sheeting the employee and the work was got



assessed through another Technical Officer (Assistant Engineer) who assessed the work as worth Rs.1,32,000/- and apparently, the employee as such rather than contesting the same had complied with the direction of depositing the amount which was as per the letter dated 23.07.2020 by the then Deputy Commissioner-cum-Chief Executive Officer. The amount was to be deposited within fifteen (15) days as such and it is not disputed that the amount was duly deposited and the learned Single Judge recorded that the NOC was also issued. After proceeding in certain manner when disciplinary proceedings was not initiated and only the recovery was sought to be done, the State choose to terminate his services thereafter.

13. A show-cause notice dated 17.09.2020 (**Annexure A-XIV**) was then issued why the services should not be terminated for non-compliance of directions and dereliction of duty as well. In the reply, it was submitted that there was no complaint during the period of service from 2014 to 2018 and that the office should be restrained to initiate disciplinary proceedings. A separate reply was given on 23.09.2020 (**Annexure A-XV**) by giving the explanation and submitting an apology as such. Even though no prompt legal action had been taken and instead of



charge-sheeting the employee after a period of two years, the impugned order was passed.

14. It is in such circumstances, we are of the considered opinion that merely on finding the reply unsatisfactory, the termination order could not have been passed. It is also to be noticed that the petitioner was appointed way-back on 22.02.2010 alongwith various other persons initially as Watershed Development Team Members (WDTMs) on contract basis under Drought Prone Area Programme (Watershed Development Programme) and his services were continued thereafter. Apparently, on 28.02.2014 (**Annexure A-III**) on the recommendation of the Selection Committee constituted for appointment/deployment of Watershed Development Team Member (WDTM) under Integrated Water Management Programme (IWMP) Project, he was selected on contract basis alongwith the others. Vide order dated 06.10.2018 (**Annexure A-VI**), he was transferred to Development Block Haroli.

15. As per the form of Contract Agreement dated 06.08.2021 (**Annexure A-VII**) his terms had also been fixed and as per Clause-3 on the basis of which he had been terminated would go on to show that in case the performance/conduct of the contract appointee is not found good or if a regular incumbent is



appointed/posted against the Vacancy for which the First Party was engaged or contract, the service of contract employee was liable to be terminated.

16. Thus, it is in such circumstances, the learned Single Judge came to the conclusion that the order is stigmatic in nature and we do not find any plausible reasons to take a different view especially, keeping in view the fact that in ***Birjesh Kumar's case*** (supra), the workman was serving as contract conductor and his services had been terminated on account of mis-conduct without holding any regular inquiry. The Apex Court had only interfered to the extent of the judgment that the High Court should not have directed that the appointment on compassionate basis could not be held permanent in nature but the quashing of the termination was upheld.

17. Similarly, in ***Swati Priyadarshini's case*** (supra), the employee as such was working on contract basis and on account of the complaint as such, the contract services had been terminated. Resultantly, the learned Single Judge allowed the writ petition and quashed the order holding the termination order stigmatic in nature. The Division Bench had allowed the appeal and the same was set aside by the Apex Court by giving the liberty to the State as such to proceed in accordance with law



regarding the disciplinary proceedings as such and therefore the law stands settled beyond every anvil of doubt and there is no scope as such to interfere with the well reasoned order passed by the learned Single Judge.

18. Resultantly, the present appeal stands dismissed accordingly.

19. Pending miscellaneous application(s) if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Jiya Lal Bhardwaj)
Judge

28th November, 2025
(Munish Thakur)