

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 16910/2010

Mahavir Prasad Gupta S/o Shri Gopilal Gupta Age 39 Years, R/o
Brahmapuri, Anta, District Bara Rajasthan

----Petitioner

Versus

1 Commissioner and Secretary, Rural Development and
Panchayati Raj Department, Government of Rajasthan,
Government Secretariat, Rajasthan, Jaipur, by the State of
Rajasthan.

2. Commissioner, Mahatma Gandhi National Rural Employment
Guarantee Programme (MGNREGA), Government Secretariat,
Jaipur, Rajasthan.

3. District Collector and District Programme Coordinator
Mahatma Gandhi National Rural Employment Guarantee
Programme (MGNREGA) Collectorate, Room No. 104,
Collectorate Baran Rajasthan.

4. Zila Parishad Baran By Chief Executive Officer & Additional
District Programme Coordinator (MGNREGA) Zila Parishad Baran,
District Baran Rajasthan.

5. Panchayat Samiti Anta by Development Officer Panchayat
Samiti Anta District Bara Rajasthan.

6. Development Officer and Programme Officer Mahatma Gandhi
National Rural Employment Guarantee Programme (MGNREGA)
Panchayat Samiti Anta District, Baran Rajasthan.

7. Deputy District Collector and Block Coordinator (MGNREGA)
Anta District Baran Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Pranava Sharma, Adv. for Mr. Satyavarat Sharma, Adv.
For Respondent(s)	:	Mr. Keshar Singh Shekhawat, Adv.

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

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| 1. Date of conclusion of arguments | <u>24/02/2026</u> |
| 2. Date on which the judgment was reserved | <u>24/02/2026</u> |
| 3. Whether the full judgment or only the operative
part is pronounced | Full Judgment |

4. Date of pronouncement**27/02/2026**

1. The petitioner has approached this Court by way of the present writ petition, assailing the order dated 11.11.2010 passed by the District Collector and District Programme Coordinator, MGNREGA, Baran, whereby his contractual services as Accounts Assistant have been terminated with immediate effect and has also laid challenge to consequential order dated 15.11.2010 passed by the Development Officer and Programme Officer, Panchayat Samiti Anta, directing that the work of Accounts Assistant be assigned to another person.

2. The material facts giving rise to the present dispute is that on 27.02.2008 interviews were conducted by the District Council for appointment to the post of Accounts Assistant under the Mahatma Gandhi National Rural Employment Guarantee Scheme (in short, 'MGNREGA') on contractual basis. The petitioner participated in the selection process and his name was reflected in the merit list dated 24.03.2008 and in pursuance thereto he was allotted Panchayat Samiti Anta.

3. Subsequently, a service agreement was executed between the petitioner and the competent authority and he was appointed on a consolidated honorarium of Rs. 8,000 per month. The petitioner underwent training on 01.04.2008 and thereafter, by order dated 13.02.2009, the charge of MNREGA accounts was handed over to him.

4. On 22.07.2010, a show cause notice was issued by respondent No.3 to several officers including the petitioner,

alleging that payment had been made for compaction of soil in gravel road works without competent approval. The petitioner submitted his reply on 30.07.2010 denying the allegations and stating that he had merely processed bills after due certification and approval by the competent authorities.

5. It is the case of the petitioner that without conducting any regular enquiry and without affording him opportunity of personal hearing, the respondent No.3 passed the impugned order dated 11.11.2010 terminating his services with immediate effect, though his contractual tenure was valid up to 28.02.2011. Consequently, by order dated 15.11.2010, his duties were assigned to another Accounts Assistant.

6. Learned counsel for the petitioner contends that the impugned order is arbitrary and violative of the principles of natural justice. It is submitted that though a show cause notice was issued, no enquiry was conducted, no findings were recorded after proper consideration of the reply and no opportunity of personal hearing was granted prior to termination.

7. It is further submitted that the petitioner was merely an Accounts Assistant discharging ministerial and procedural duties. The sanction of works, technical approval, certification in the measurement book and approval of payment were within the exclusive domain of the Junior Technical Assistant, Assistant Engineer and Programme Officer and the petitioner had no authority to sanction work or approve technical estimates.

8. Learned counsel argues that payments were released strictly after written approval by the Programme Officer and that cheques

were signed jointly with the competent authority. It is contended that all documents on record demonstrate that the petitioner acted strictly in accordance with established financial procedure.

9. It is further argued that the allegations in the termination order go beyond the scope of the show cause notice. While the notice alleged absence of prior approval for compaction, the termination order attributes misuse of government funds and serious irregularity, which were never specifically put to the petitioner.

10. Learned counsel also submits that as per the contractual terms, termination required one month's notice or payment of honorarium in lieu thereof. The services of the petitioner have been terminated with immediate effect without compliance of the said condition. Furthermore, the petitioner's contractual tenure was subsisting till 28.02.2011 and termination prior to expiry of the term, without due process and without adherence to contractual safeguards and the same is arbitrary and violative of Articles 14 and 21 of the Constitution of India. Therefore, it is prayed that the impugned order may be quashed and set aside and petitioner be reinstated with continuity of service and all consequential benefits.

11. Per contra, learned counsel for the respondents has supported the impugned order and submitted that serious financial irregularities were detected in the execution and payment of compaction works under the scheme of MGNREGA. The compaction work was undertaken without competent sanction and payments were released in violation of financial norms.

12. Learned counsel contends that the petitioner, being Accounts Assistant and joint signatory to cheques, was under obligation to ensure compliance with financial rules and to prevent illegal disbursement of government funds. It is argued that he failed to discharge his duties diligently and facilitated release of payments despite lack of proper sanction.

13. It is further submitted that a show cause notice was duly issued to the petitioner and his reply was considered. Upon consideration of the material available on record, the competent authority found that irregular payments had been made and thereafter contractual services of the petitioner were terminated.

14. It is also contended that the petitioner was engaged purely on contractual basis and had no vested right to continue till expiry of the contractual term. It is urged that in contractual matters, particularly in cases involving financial irregularity, the scope of judicial review is limited and the Court ought not to interfere unless the action is shown to be patently arbitrary or *malafide*. Hence, it is prayed that the present writ petition deserves dismissal.

15. Heard and perused the material available on record.

16. It is not in dispute that the present matter arises out of a purely contractual relationship between the parties. The petitioner was engaged on contractual basis under the scheme of MGNREGA and his engagement was governed by a service agreement executed between the parties.

17. The scope of this Court while exercising its power under Article 226 is limited when it comes to adjudication of contractual

claims. In this regard, the Hon'ble Apex Court in the case of **Joshi Technologies International Inc. v. Union of India, (2015) 7**

SCC 728, has held as under:-

"55. Law in this aspect has developed through catena of judgments of this Court and from the reading of these judgments it would follow that **in pure contractual matters the extraordinary remedy of writ under Article 226 or Article 32 of the Constitution cannot be invoked. However, in a limited sphere such remedies are available only when the non-Government contracting party is able to demonstrate that it is a public law remedy which such party seeks to invoke, in contradistinction to the private law remedy simpliciter under the contract.** Some of the case law to bring home this cardinal principle is taken note of hereinafter.

56. Significantly, in **Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani [(1989) 2 SCC 691]** as well, this Court made it clear that if the rights are purely of private character, no mandamus can be issued. Thus, even if the respondent is "State", the other condition which has to be satisfied for issuance of a writ of mandamus is the public duty. In a matter of private character or purely contractual field, no such public duty element is involved and, thus, mandamus will not lie.

69. The position thus summarised in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. **At the same time, discretion lies with the High Court which under certain circumstances, it can refuse to exercise. It also follows that under the following circumstances, "normally", the Court would not exercise such a discretion."**

18. It is also well established that while exercising jurisdiction under Article 226 of the Constitution of India, this Court does not sit as an appellate authority over administrative or disciplinary decisions. The scope of judicial review is confined to examining the decision-making process and not the merits of the decision itself. The Hon'ble Supreme Court in the case of **Union of India v. P. Gunasekaran, (2015) 2 SCC 610**, held as under:-

“**13.** Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;
- (ii) **interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;**
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based.
- (vi) **correct the error of fact however grave it may appear;**
- (vii) go into the proportionality of punishment unless it shocks its conscience.”

(Emphasis Supplied)

19. It is equally well settled that in matters of termination of contractual engagement, the Court would interfere only if the action is shown to be arbitrary, malafide or in violation of statutory or constitutional provisions. In the present case, it is borne out from the record that a show cause notice dated 22.07.2010 was issued to the petitioner detailing the allegations relating to irregular release of payments in respect of compaction works under MGNREGA and the petitioner submitted his reply on 30.07.2010. The allegations against the petitioner pertained to financial irregularities and improper release of government funds in his capacity as Accounts Assistant and joint signatory to

cheques. The petitioner was put to notice of the allegations and was afforded the opportunity to submit his explanation and the competent authority, upon consideration of the material on record and the reply submitted by the petitioner, formed its satisfaction that the petitioner had failed to discharge his contractual obligations diligently.

20. Therefore, considering the peculiar facts of the present case and the precedents laid down by the Hon'ble Apex Court, this Court is of the considered opinion that no ground for interference under Article 226 is made out.

21. Accordingly, the instant writ petition, being devoid of merit, is hereby dismissed.

22. All pending application(s), if any, also stand disposed of. There shall be no order as to costs.

(PRAVEER BHATNAGAR),J