

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 20129/2025

Sarpanch, Gram Panchayat Thated, District Kota

----Petitioner

Versus

Kailash Chand Sharma S/o Shri Ram Pratap Sharma, Through
Narendra Kumar Tiwari, Joint Secretary, Hindu Mazdoor Sabha,
Bangali Colony, Chawani, Kota.

----Respondent

Connected With

S.B. Civil Writ Petition No. 7410/2025

Kailash Chand Sharma S/o Shri Ram Pratap Sharma, Through
Narendra Kumar Tiwari, Joint Mahamantri, Hind Majdoor Sabha,
Bangali Colony, Chhavni, Kota.

----Petitioner

Versus

Sarpanch, Gram Panchayat, Tathed , District Kota.

----Respondent

For Petitioner(s)	:	Mr. Kumawat Ritesh Ratanlal, Adv.
For Respondent(s)	:	Mr. Kailash Chander Sharma, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

17/02/2026

1. Employer has filed S.B. Civil Writ Petition No. 20129/2025 challenging award dated 13.11.2024 passed by Labour Court, Kota, whereby reference under Section 10(1)(c) of Industrial Disputes Act, 1947 (for short 'the Act of 1947') in relation to legality and validity of termination order dated 09.10.2003, whereby services of the Workman-Kailash Chand Sharma were terminated by the petitioner, has been answered in

the manner that while holding the termination as illegal, directions for granting compensation in the tune of Rs.3 lacs have been given. Workman-Kailash Chand Sharma has also filed S.B. Civil Writ Petition No. 7410/2025 challenging the very same award dated 13.11.2024 and submitted that instead of awarding compensation, workman should have been reinstated back in service along with consequential benefit and even if, for any reason whatsoever, reinstatement was not possible, then in that case the compensation awarded by Labour Court is at lower side.

2. Facts in brief are that after taking resolution, the workman was appointed on 30.11.1988 as Sahayak Sachiv on work arrangement basis in Gram Panchayat Thated. The workman continued till 08.10.2003 when his services were terminated holding the same to be in violation of Rajasthan (Regulation of Appointments to Public Services and Rationalisation of Staff) Act, 1999 (for short 'the Act of 1999'). Feeling aggrieved the workman raised industrial dispute, which was ultimately referred to the Labour Court for adjudication and terms of reference were as to whether the termination of workman w.e.f. 09.10.2003 was valid and proper or not?, and if not, the workman is entitled to what relief.

3. Learned counsel appearing for the employer submitted that as the initial appointment of the workman was illegal and without conducting any regular process of appointment, therefore, he was having no right to hold the post and in view of provisions of Section 4 of the Act of 1999, his services have rightly been terminated.

4. Learned counsel submits that since, termination was strictly in accordance with the provisions of the Act of 1999, therefore, without appreciating provisions of the Act as well as the nature of initial engagement of workman, erroneous finding has been given by the Labour Court that termination of the workman was illegal.

5. Learned counsel submits that the award dated 13.11.2024 is suffering from serious illegality and jurisdictional error in as much as that without appreciating the provisions of the Act of 1999, Labour Court has tested the termination of the workman at the touchstone of the provisions of Section 25(f) of the Act of 1947, which have got no application in the facts and circumstances of the case.

6. Learned counsel submits that since, termination was in consonance with the provisions of the Act of 1999, therefore, the workman was not entitled for any compensation whatsoever.

7. Learned counsel for the employer has relied upon the judgment of Hon'ble Supreme Court in the case of **The State of Bihar & Ors. Vs. Devendra Sharma** (Civil Appeal No.7879 of 2019) decided on 17.10.2019 and **Union of India & Anr. Vs. Raghuwar Pal Singh** (Civil Appeal No.1636 of 2012) decided on 13.03.2018.

8. While opposing the writ petition filed by the employer, learned counsel for the workman submitted that termination order dated 08.10.2003 was issued malafidely by the employer by invoking the provisions of the Act of 1999, which came into force only on 07.05.1999, whereas the workman was appointed way back on 30.11.1988. Learned counsel submits that provisions of

the Act of 1999 cannot be applied retrospectively so as to defeat the legitimate rights of the workman. He submits that the workman has successfully proved before the Labour Court that the workman has worked for more than 240 days in a calendar year just preceding the date of termination and the termination order has been passed without issuing any notice or affording opportunity to the workman, and even retrenchment compensation was also not paid to him. Learned counsel also submits that as regards Section 4 of the Act of 1999 is concerned, the same has been diluted in the judgment of **Bhawani Singh Vs. State & Ors. (2002) SCC OnLine Raj 435.**

9. Learned counsel submits that factual finding has been given by the Labour Court with regard to non-compliance of Section 25 (f) of the Act of 1947. He submits that it is settled proposition of law, once termination order is legal, natural consequence would be reinstatement along with all consequential benefits. Learned counsel relied upon the judgment of Hon'ble Supreme Court in the case of **Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.ED) & Ors. (2013) 10 SCC 324.**

10. In the alternate, while pressing his writ petition No.7410/2025, learned counsel for the workman submitted that even if for any reason whatsoever, reinstatement of the workman was not possible then looking to the long tenure of service of the workman of around 15 years the compensation of Rs.3 lacs awarded to the workman is at lower side. Learned counsel for the workman relied upon the judgment of Hon'ble Supreme Court in the case of **Amit Kumar Dubey Vs. M.P.P.K.V.V. Co. Ltd. &**

Anr. arising out of SLP (Civil) No.20902/2024, wherein the Hon'ble Supreme Court has given a formula that where there is a considerable gap between the termination and adjudication of dispute, instead of reinstatement, the workman shall be entitled for compensation @ Rs.1.5 lac per year.

11. Heard learned counsel for the parties and perused the record.

12. It has not been disputed by learned counsel for the employer that the workman was engaged on 30.11.1988 and his services were terminated on 08.10.2003. Thus, prior to termination of services, the workman has worked for as many as 15 years.

13. It is equally undisputed that at the time when the workman was engaged, resolution was taken by the Gram Panchayat for engaging the workman.

14. Reliance on the provisions of the Act of 1999 for supporting the termination order dated 08.10.2003 is apparently misconceived for two apparent reasons; first, the Act of 1999 was enforced w.e.f. 07.05.1999 and its provision cannot be applied retrospectively in order to defeat the vested rights of any employee/workman. Besides Section 4, is otherwise to be read prospective in nature for imposing prohibition of appointments in future on daily wages. No provision whatsoever has been shown by learned counsel for the employer, which may authorise the employer to terminate the services of the employees/workmen, who were engaged prior to enforcement of the Act of 1999. The provisions of the Act of 1999 have been diluted by Division Bench of this Court in the judgment of **Bhawani Singh (Supra)** and as

such the termination order based on such provision of the Act cannot be sustained any more. It has also been held in the above judgment by the Division Bench that the Industrial Disputes Act, 1947 being central enactment, it has overriding effect over the Act of 1999.

15. So far as judgments relied upon by learned counsel for the petitioner is concerned, in the case of **Union of India and Anr. Vs. Raguwar Pal Singh (Supra)**, the Hon'ble Supreme Court has held that in the cases, where the initial appointment order was nullity and void ab initio, granting opportunity of hearing prior to termination is not an essential requirement and would be an exercise in futility. In the case of **The State of Bihar & Ors. Vs. Devendra Sharma (Supra)**, the Hon'ble Supreme Court was dealing with a case where employment was secured on forged documents, hence such appointments were illegal appointments. Thus, the facts and controversy in the above two judgments were altogether different from the present case, hence, the ratio laid down therein are not at all applicable.

16. Learned counsel for the employer has not extended any submission so as to negate the finding given by the Labour Court that the workman has worked for more than 240 days in a calendar year just preceding the date of termination, nor was he in a position to submit that prior to termination of services of the workman, provisions of Section 25(f) of the Act of 1947 were complied with.

17. Under these circumstances, this Court finds that the Tribunal has committed no mistake in holding that the termination

order dated 08.10.2003 which discontinued the services of the workman w.e.f. 09.10.2003 was illegal.

18. Once it is held that the termination is illegal, then the question of extent of relief to be granted to the workman arises. Although, learned counsel for the workman prays for the relief of reinstatement in service without consequential benefit, however, in view of the judgment of Hon'ble Supreme Court in the case of **B.S.N.L. Vs. Bhurumal (2014) 7 SCC 177**, where the appointment was not regular in nature and there was long gap between the date of termination and date of adjudication of reference, it has been held that the grievance of the workman can be redressed by awarding him compensation in lieu of benefit of reinstatement.

19. In the recent judgment of **Amit Kumar Dubey (Supra)**, the Hon'ble Supreme Court has given a formula that compensation can be computed @ Rs.1.5 lac per year for the period the workman has worked. Accordingly, in the instant case, where the workman has worked for almost 15 years, in the light of judgment of **Amit Kumar Dubey (Supra)**, the workman is entitled for $15 \times 1.5 = \text{Rs.}22.50$ lacs as compensation, which shall be sanctioned and released to the workman within a period of 60 days from the date of receipt of certified copy of this judgment, failing which the aforesaid amount shall carry interest @ 6% per annum.

20. These writ petitions stand disposed of.

21. Pending application(s), if any, stand(s) disposed of.

(ANAND SHARMA),J