**IN THE HIGH COURT OF MADHYA PRADESH**
**AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT**

**ON THE 12th OF SEPTEMBER, 2025**

**WRIT PETITION No. 3230 of 2014**

***SMT. RANI GUPTA***
*Versus*
***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri Jitendra Singh Rathore - Advocate for petitioner.*

*Shri K.K. Prajapati – Government Advocate for respondent/State.*

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**WITH**

**WRIT PETITION No. 3204 of 2014**

***BHAGWAN DAS AND OTHERS***
*Versus*
***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri B.P. Singh - Advocate for petitioners.*

*Shri K.K. Prajapati – Government Advocate for respondent/State.*

**WRIT PETITION No. 3231 of 2014**

***SMT. JANKI TOMAR***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri Jitendra Singh Rathore - Advocate for petitioner.*

*Shri K.K. Prajapati – Government Advocate for respondent/State.*

**WRIT PETITION No. 3233 of 2014**

***SURENDRA SINGH***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri Jitendra Singh Rathore - Advocate for petitioner.*

*Shri K.K. Prajapati – Government Advocate for respondent/State.*

**ORDER**

Since the issue involved herein is one and the same, therefore, by this common order, ***WP. No.3230 of 2014*** *filed by Smt. Rani Gupta,* ***WP. No. 3204 of 2014*** *filed by Bhagwan Das, Sanjay Singh & Smt. Manju Devi,* ***WP. No.3231 of***

***2014*** *filed by Smt. Janki Tomar &* ***WP. No.3233 of 2014*** *filed by Surendra Singh* shall be decided.

2. For the sake of convenience, facts of ***WP. No. 3230 of 2014*** shall be taken into consideration.

3. This petition, under Article 226 of the Constitution of India, has been filed seeking the following reliefs:-

> "(i) That, the impugned order of termination from service of petitioner Annexure P/1 at Item No.2 may kindly be quashed.
>
> (ii) That, Any other writ order and direction, which is found just, suitable and proper in favour of the petitioner, may kindly be granted to the petitioner."

4. It is submitted by learned counsel for petitioner that petitioner was working as A.N.M. (Women Health Worker) at Nutrition Rehabilitation Centre, (NRC) Gohad District Bhind (M.P.) in the National Rural Health Mission Madhya Pradesh. Petitioner was initially appointed as Women Health Worker by respondent No. 3 vide order dated 25.01.2011 on contract basis and she was posted at Sub-Health Centre, Enchaya Gohad Distt. Bhind (M.P.). Vide order dated 04-07-2013 petitioner was posted at Nutrition Rehabilitation Centre. Gohad Distt. Bhind. Thereafter, by impugned termination order Annexure P-1 dated 19.05.2014, services of petitioner have been terminated according to Clause 2.18 of Contractual Human Resource Policy of National Rural Health Mission, Madhya Pradesh of the year 2013-14 and according to Clause 17.1 of the policy the candidature of petitioner shall not be considered in future for any contractual post. Such an order has been passed by respondents without giving

any notice and opportunity of hearing to petitioner regarding allegations of negligence in duty. Learned counsel for petitioner further submitted that the impugned termination order is arbitrary and contrary to law as it has been passed without giving any opportunity of hearing and show cause notice to the petitioner. Thus, the action of respondents is in flagrant violation of principle of natural justice and in violation of Article 14 of Constitution of India.

5. It is further submitted by learned counsel for petitioner that services of petitioner have been terminated without holding any enquiry. Since impugned order Annexure P-1 dated 19.05.2014 is stigmatic in nature, therefore, regular departmental enquiry ought to have been held by respondents. To bolster his submission, learned counsel placed reliance on the judgment passed by Co-ordinate Bench in **WP No.23267/2019 (Omprakash Gurjar vs. Panchayat and Rural Development & Ors.)**, also the order dated 12.09.2023 passed in **WP No.19117/2022 (Hukumchand Solanki vs. Panchayat and Rural Development & Ors.)** and the order dated 19.07.2023 passed in **WP No.14663/2022 (Arvind Malviya vs. State of MP & Ors.)**.

6. It is submitted that Division Bench of this Court in the case of **Rahul Tripathi Vs. Rajeev Gandhi Shiksha Mission, Bhopal & Others** reported in **2001(3) MPLJ 616** and **Jitendra Vs. State of M.P. & Others** reported in **2008(4) MPLJ 670** has rightly held that the order of termination is stigmatic in nature as the same entails serious consequences on future prospects of respondent and therefore, the same ought to have been passed after holding an inquiry. This Court is further supported in its view by the judgment passed by Division Bench of this Court in the case of **Malkhan Singh Malviya Vs. State of M.P.** reported in **ILR(2018) MP 660**. It is further submitted that the Apex Court while deciding

the case of **Khem Chand vs. The Union of India and Ors.** reported in **1958 SC 300**, had an occasion to summarize the concept of reasonable opportunity, relevant para of which has been pressed into service and which reads as under:-

> "(19) To summarize: the reasonable opportunity envisaged by the provision under consideration includes-
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> (a) An opportunity to deny his guilt and establish his innocence, which he can deny only do if he is told what the charges levelled against him are and the allegations on which such charges are based;
> (b) an opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or any other witnesses in support of his defence;
>
> (c) an opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the government servant tentatively proposes to inflict one of the three punishments and communicates the same to the government servant."

7. *Per contra*, learned counsel for the State justifying the order impugned submitted that since allegations levelled against petitioners were found proved, therefore, the services of petitioners were rightly terminated. It is further submitted by him that petitioners are contractual workers and as per Clause 2.18 of Contractual Human Resource Policy of National Rural Health Mission, Madhya Pradesh of the year 2013-14 services of petitioners can be terminated after giving one month's notice. Clause 2.18 of the said policy reads as under:

> ''2.18 राज्य स्वास्थ्य समिति द्वारा परिस्थितिजन्य कारणों से अनुबंध एक माह की पूर्व सूचना अथवा एक माह के संविदा मानदेय की समतुल्य राशि का भुगतान, कर समाप्त की जा सकेगी।''

8. Learned counsel for respondent/State further submits that the impugned order dated 19.05.2014 (Annexure P-1) is only a show-cause notice and not the termination order and as per the judgment rendered by Hon'ble Apex Court in the case of **Union of India and Another Vs Kunisetty Satyanarayana** reported in **(2006) 12 SCC 28** petitioners are not entitled to get any relief. Thus, learned counsel for respondent/State supports the impugned order and prays for dismissal of present petitions.

9. Having heard learned counsel for the parties and after perusal of record, it is seen that impugned order dated 19.05.2014 (Annexure P-1) is not a show-cause notice but it is a stigmatic termination order which is clear from its language even, which goes as under:-

> ''एतद द्वारा आपको सूचित किया जाता है कि दिनांक 05 मई 2014 को समाचार पत्र दैनिक जागरण में प्रकाशित अनुसार पोषण पुनर्वास केन्द्र, गोहद में पदस्थ कर्मचारियों के रात्रि में न रूकने के चलते भर्ती कुपोषित बच्चे की घर पर मृत्यु हुई, **उक्त स्थिति अत्यंत गंभीर होकर लापरवाही एवं पदीय कर्त्तव्यों का निर्वहन न करने की श्रेणी में आता है**।
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> आपका उक्त कृत्य राज्य स्तर से जारी निर्देश किसी भी दशा में पोषण पुनर्वास केन्द्र बन्द न किया जावे, की अवहेलना की श्रेणी में आता है। पोषण पुनर्वास केन्द्र में पदस्थ कर्मचारियों के रात्रि को न रहने के कारण रात्रि में परिजनों द्वारा बच्चों को घर ले जाया जाता है, इसी के कारण मृत्यु का उल्लेख संदर्भित समाचार पत्र में किया गया है।
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> मिशन संचालक, एनआरएचएम मध्यप्रदेश के संदर्भित पत्र द्वारा पोषण पुनर्वास केन्द्र में पदस्थ कर्मचारियों द्वारा रात्रि में न रुकना, राज्य स्तर से जारी निर्देशों की अवहेलना होते हुए कठोर कार्यवाही के रूप में पोषण पुनर्वास केन्द्र में पदस्थ समस्त कर्मचारियों की संविदा सेवा तुरंत समाप्ति के निर्देश प्रदान किए गए है।
>
> आपके उक्त कृत्य एनआरएचएम, मध्यप्रदेश की संविदा मानव संसाधन नीति की कंडिका 2.16 का **उल्लंघन होकर कदाचरण की श्रेणी में आते हैं**।

> अतः मानव संसाधन नीति की **कंडिका क्र. 2.18 के अनुसार** आप समस्त को एक माह का पूर्व सूचना पत्र प्रस्तुत किया जा रहा है. सूचना पत्र जारी दिनांक के एक माह पश्चात आपकी संविदा सेवा **स्वतः समाप्त मानी जावेगी**, जिस हेतु पुनः कोई पत्राचार या आदेश जारी नहीं किया जावेगा। साथ ही मानव संशाधन नीति की कंडिका **क्र.17.1 के अनुसार आप भविष्य में अन्य किसी संविदा पद के लिए उम्मीदवारी पर विचार नहीं किया जावेगा। तदनुसार अवगत हो**।''

10. From the aforesaid, it is clear that impugned order is stigmatic in nature, therefore, without conducting a regular departmental enquiry impugned order cannot be issued by respondents. The impugned termination order has been issued without giving any opportunity of hearing to petitioners. From the language of impugned order, it is clear that it is a termination order and not the show-cause notice. Even, reply has not been called from petitioners.

11. It is settled position that if the order of termination is stigmatic in nature, the same entails serious consequences on future prospects of the petitioners and therefore the same ought to have been passed after holding an enquiry. In **Arvind Malviya (supra)**, it is held as under:-

> "3) After hearing learned counsel for the parties and taking into consideration the fact that the present petition is covered by the order dated 25/4/2022 passed in WP No.23267/2019 (Omprakash Gurjar (supra)), the present petition is allowed. The impugned order is hereby set aside. The respondents are directed to reinstate the petitioner in service with 50% backwages within a period of 2 months from the date of communication of the order. However, liberty is granted to the respondents to proceed against the petitioner afresh in accordance with law, if so advised. The said order passed in W.P. No.23267/2019 shall apply mutatis mutandis to the present case."

12. The Division Bench of this Court, at Principal Seat, Jabalpur, in the case of **Rajesh Kumar Rathore vs. High Court of M.P. and another (W.P. No.18657 of 2018)** vide order dated 23/11/2021 has held as under:

"6. The short question of law involved in the present case is as to whether the services of an employee under the Rules relating to Recruitment and Conditions of Service of Contingency Paid (District and Sessions Judge Establishment) Employees Rules, 1980, can be terminated without conducting a departmental enquiry when an order of termination casts stigma on the employee.

7. We are in full agreement with the legal position expounded in various judgments cited by the learned counsel appearing for the respondent. However, in the instant case, the question that arise for consideration, as stated above, is squarely covered by the decision of co-ordinate bench of this Court in the case of Krishna Pal Vs. District & Sessions Judge, Morena (supra). In the present case, it is an admitted fact that neither charge-sheet was issued nor departmental enquiry was conducted and order of termination attributes dereliction of duty amounting to misconduct, and hence, the same is clearly stigmatic order. The petitioner's services are admittedly governed under the Rules of 1980. If the facts and situation of the present case is examined in the context of the facts and situation of the case of Krishna Pal (supra), it is found that this Court had taken a view (para-5 of the said judgment) that Normally when the services of a temporary employee or a probationer or contingency paid employee is brought to an end by passing innocuous order due to unsatisfactory nature of service or on account of an act for which some action is taken, but the termination is made in a simplicitor manner without conducting of inquiry or without casting any stigma on the employee, the provisions of Rule 9 of the Rules 1980 can be taken aid of. However, when the termination is founded on acts of commission or omission, which amounts to misconduct. Such an order casts stigma on the conduct, character and work of the employee and hence, the principle of natural justice, opportunity of hearing and inquiry is requirement of law.

8. In view of the aforesaid pronouncement of law, we are not inclined to take a different view, therefore, in view of the aforesaid, the impugned order dated 06.06.2017 (Annexure-P-6) and order dated 20.06.2018 (Annexure-P-9) are set aside."

13. Taking into consideration the entire gamut of the matter and also the fact that the present petition is similar to **order dated 25/4/2022 passed in WP No.23267/2019 [Omprakash Gurjar vs. Panchayat and Rural Development & Ors.]**, the impugned termination/removal order dated 19.05.2014 (Annexure P-1) is hereby set aside.

14. This Court has already issued interim order dated 19.06.2014 (in WP. No.3230/2014, WP. No.3231/2014 and WP. No.3233/2014) and interim order dated 17.06.2014 (in WP. No.3204/2014) by which impugned order 19.05.2014 (Annexure P-1) has been stayed and thus petitioners must have been continuing in service in the light of the said interim orders.

The respondents would be at liberty to proceed against petitioners afresh in accordance of law, if so advised.

15. Accordingly, present petitions stand ***allowed.***

**(Anand Singh Bahrawat)**
**Judge**

**pd**