



IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 18th OF NOVEMBER, 2024

WRIT PETITION No. 14556 of 2024

DR. RAJ SHARMA

Versus

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

Appearance:

Shri Abhishek Tugnawat - advocate for the petitioner.

Ms. Bhagyashree Gupta appearing on behalf of Advocate General.

Shri Romesh Dave, learned counsel for the respondent No.2.

ORDER

1] This writ petition has been filed by the petitioner, who is a Consultant Primary Health Care (CPHC) under Article 226 of the Constitution of India seeking the following reliefs:-

- “(i) Allow this petition with costs, and
- (ii) Issue an appropriate writ, order or direction thereby to quash the impugned order dated 02/05/2024 passed by respondent no.2.
- (iii) That, any other appropriate writ, order or direction which this Hon’ble Court deem just and proper in the facts and circumstances of the present case, may kindly be passed in favour of the petitioner.”

2] The petitioner is aggrieved by the order dated 02/05/2024, whereby the services of the petitioner have been dismissed with



immediate effect on account of dereliction of his duties.

3] Counsel for the petitioner has submitted that the aforesaid order has been passed without conducting any inquiry, and no opportunity of hearing has been given to the petitioner. It is submitted that identically placed employee Smt. Arpita Singh Chouhan was also found to be negligent in performing her duties, who was also proceeded against, and her services were also terminated immediately e.w.f., 15/10/2022, has been given a different treatment as the Mission Director, National Health Mission, vide his letter dated 27/12/2022, while cancelling the order of termination of Smt. Arpita Singh Chouhan has directed that proper inquiry be conducted against her. It is also submitted that similar treatment has been given to one Lalsingh Parmar also, and thus, it is submitted that the respondents ought to have treated the petitioner's case on parity with Smt. Arpita Singh Chouhan and Lalsingh Parmar. Thus, it is submitted that the impugned order be quashed, and the respondents may be directed to proceed against the petitioner only after conducting proper inquiry as is envisaged under Rule 11.3 of Samvida Manav Sansadhan Manual, 2021.

4] A reply has also been filed by the respondents traversing the averments made in the petition and it is submitted that the petitioner's services being purely contractual in nature, have been terminated in accordance with Samvida Manav Sansadhan Manual, 2021. Counsel has submitted that the petitioner has been issued a notice under Clause 11.3 of H.R. Manual 2021, wherein it is



provided that the order can be passed by the competent authority after serving notice in writing, and the petitioner was issued a notice dated 22/03/2024, a reply of the same has also been filed by the petitioner which has not been found to be satisfactory. Hence, it is submitted that no case for interference is made out. In support of his contentions, counsel for the respondent has also relied upon a decision rendered by the coordinate Bench of this Court in the case of *Rakesh Ajnar vs. State of M.P. and others passed in W.P. No.18749/2024 dated 19/07/2024* to submit that a remedy of appeal is also available to the petitioner, and he has bypassed the aforesaid remedy by filing this petition.

5] In rebuttal, counsel for the petitioner has submitted that in the case of *Smt. Arpita Sing*, inquiry was conducted under Clause 11.1 and 11.2, and the petitioner has also claimed her rights on the ground of parity.

6] Heard learned counsel for the parties and perused the documents filed on record.

7] On perusal of the record, it is found that the petitioner was appointed on 18/05/2022, on the post of Consultant Primary Health Care on contractual basis, and the service is governed by Samvida Manav Sansadhan Manual, 2021, according to which, the contract would be for a period up to and of financial year, and as per para 11.3 of the Manual, 2021, if it is found that the employee is found to be involved in any such activities which may reflect adversely on the name of National Health Mission, he/she would be given oral/written



opportunity to submit reply and in case, if it is found that the reply is not satisfactory, the services may be terminated immediately after giving one month's notice. An appeal is also provided in para 11.4 of the same.

8] It is found that the respondents have not adverted to the petitioner's contention that in the case of similar situated employees, viz., Smt. Arpita Singh Chouhan and Lalsingh Parmar, a different treatment was given to them and the petitioner has been treated differently, however, this Court is of the considered opinion that the aforesaid objection can very well be taken by the petitioner in the appeal also as provided in para 11.4 of the Manual 2021. In view of the same, no case for interference is made out.

9] Accordingly, the writ petition is hereby *disposed of/dismissed* with liberty to the petitioner to prefer an appeal before the appellate authority, raising all the grounds available to him. It is directed that if the appeal is preferred by the petitioner within a period of 30 days, the same shall be decided by the appellate authority, in accordance with law.

Sd/-

**(SUBODH ABHYANKAR)
JUDGE**

krjoshi