

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,**

**CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV**

**ON THE 29<sup>th</sup> OF MARCH, 2022**

**WRIT APPEAL No.1091 of 2019**

**Between:-**

**MAHENDRA KORI, AGED ABOUT 46  
YEARS, SON OF SHRI PRABHU DAYAL  
KORI, OCCUPATION: UNEMPLOYED  
(TERMINATED), R/O HOUSE NO.84,  
NEAR VIJAY TALKIES SQUARE,  
RAMPURA, WARD, SAGAR (M.P.)**

**.....APPELLANT**

***(BY SHRI NARINDER PAL SINGH RUPRAH - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH,  
THROUGH THE PRINCIPAL  
SECRETARY, PANCHAYAT & RURAL  
DEVELOPMENT DEPARTMENT,  
VALLABH BHAWAN, BHOPAL (M.P.).**

2. COLLECTOR & DISTRICT PROGRAM COORDINATOR, M.P. RURAL EMPLOYMENT GUARANTEE SCHEME, CHHATARPUR (M.P.)
3. CHIEF EXECUTIVE OFFICER, JANPAD PANCHAYAT, GAURIHAR, DISTRICT CHHATARPUR (M.P.)
4. SHRI NIRDESHAK SHARMA, THE THEN C.E.O, JANPAD PANCHAYAT, BARIGARH, DISTRICT CHHATARPUR. PRESENTLY WORKING AS C.E.O, JANPAD PANCHAYAT, RATLAM (M.P.)

....RESPONDENTS

*(BY SHRI ROHIT JAIN - GOVERNMENT ADVOCATE)*

**WRIT APPEAL No.1092 of 2019**

**Between:-**

**MAHENDRA KORI, AGED ABOUT 46 YEARS, SON OF SHRI PRABHU DAYAL KORI, OCCUPATION: UNEMPLOYED (TERMINATED), R/O WARIGARH (SIC BARIGARH) DISTRICT CHHATARPUR, PRESENT ADDRESS: HOUSE NO.84, NEAR VIJAY TALKIES SQUARE, RAMPURA, WARD SAGAR (M.P.)**

.....APPELLANT

**(BY SHRI NARINDER PAL SINGH RUPRAH - ADVOCATE)**

**AND**

1. STATE OF MADHYA PRADESH,  
THROUGH SECRETARY, PANCHAYAT  
& RURAL DEVELOPMENT  
DEPARTMENT, VALLABH BHAWAN,  
BHOPAL (M.P.).
2. COLLECTOR & DISTRICT PROGRAM  
COORDINATOR, MNGNREG SCHEME,  
DISTRICT CHHATARPUR (M.P.)
3. DIVISIONAL COMMISSIONER, DISTRICT  
CHHATARPUR (M.P.)
4. C.E.O. MNGNREG, JANPAD PANCHAYAT,  
GAURIHAR, DISTRICT CHHATARPUR  
(M.P.)

**....RESPONDENTS**

**(BY SHRI ROHIT JAIN - GOVERNMENT ADVOCATE)**

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*This appeal coming on for admission this day, **Hon'ble Shri Justice Purushaindra Kumar Kaurav**, passed the following:*

**ORDER**

These *intra* Court appeals arise out of common order dated 04.04.2019, passed by the learned Single Judge in Writ Petition No.

9376 of 2014 and Writ Petition No.8226 of 2017, whereby the writ petitions preferred by the petitioners have been dismissed. Since, the learned Single Judge has taken the facts from Writ Petition No.8226 of 2017, therefore, for the sake of convenience, the facts are being taken from Writ Appeal No.1091/2019 which arise from the said Writ Petition.

2. The case of the appellant is that vide order dated 06.11.2006, the appellant was appointed as Sub Engineer on contract basis for a period of 1 year, subject to the condition of extension of the contract. The appellant was not in good relation with respondent No.4. On account of the conduct of respondent No.4, the appellant had to file a private complaint under Section 200 of the Cr.P.C for various offences before the competent Court. According to appellant, at the behest of respondent No.4, some false grounds were created and the services of the appellant were terminated vide order dated 09.04.2014. Against the said order, the appellant preferred appeal before the Commissioner, but the same was also dismissed on 09.05.2014, therefore, the appellant filed Writ Petition No.9376/2014, where vide order dated 17.09.2014, the operation of the termination order dated 09.04.2014 was stayed by this Court. By impugned common order Writ Petition No.9376 of 2014 has also

been dismissed which is subject matter of Writ Appeal No.1092 of 2019.

3. It is the case of the appellant that respondent No.2 – Collector issued another show cause notice dated 18.03.2015 to the appellant to show cause as to why his services should not be terminated on the ground that he had obtained less marks in the ACR. The appellant submitted his reply on 23.03.2015, whereby, a specific stand was taken that the ACR written by the respondent No.4 was biased. The appellant filed Writ Petition No.4304 of 2015 before this Court challenging the show cause notice dated 18.03.2015. However, vide order dated 27.03.2015, the writ petition was disposed off with a direction to the concerned authority to consider the reply of the appellant before passing any order. The services of the appellant were terminated on 30.05.2015 on the ground that his reply was not found satisfactory. The appellant challenged the said order in Writ Petition No.8741/2015 which was disposed off vide order dated 01.07.2015 with a direction to file application before the Collector, who was directed to consider and decide the same within a period of two months from the date of receipt of the application, in accordance with law. The Collector vide order dated 02.03.2016 decided the application of the appellant and passed the order, whereby, the

earlier order of termination dated 30.05.2015 has been affirmed and the application/representation of the appellant was not found to be satisfactory. The appellant, therefore, challenged the order dated 30.05.2015 (Annexure P/2) and 02.03.2016 (Annexure P/1) with the further direction to the respondents to reinstate the appellant in services with all consequential benefits before the learned Single Judge. Learned Single Judge has dismissed the writ petition, therefore, the appellant has filed the present appeal.

4. We have heard learned counsel for the parties and perused the record.

5. The main ground on which the challenge is made is that the order of termination is stigmatic and therefore, without providing any opportunity of hearing to the appellant or conducting an enquiry, such order could not have been passed. We have perused the order dated 30.05.2015 and we find that on the basis of not obtaining the requisite marks, the services of the appellant were not continued. In order dated 30.05.2015, it has been noted that before 31.03.2014 confidential report was required to be submitted by the appellant for the year from 01.04.2013 to 31.03.2014 which was not submitted by him. The reason for non-submission was attributed by the appellant to respondent No.4 which was found to be incorrect. Such an order

cannot be treated to be a stigmatic order as the terms of the original appointment on contract basis clearly stipulates that the employer on satisfaction of the services of the employee would decide as to whether further extension of the service of the employee can be ordered. In the instant case, since the employer did not find it appropriate to extend the services of the employee, no fault can be found with. As has been held by the Hon'ble Supreme Court in the matter of Radheshyam Gupta Vs. U.P. Industries Agro,<sup>1</sup> that the termination of service of a temporary servant or one on probation, on the basis of adverse entries or on the basis of an assessment that his work is not satisfactory will not be punitive inasmuch as the above facts are merely the motive and not the foundation. The assessment is not done with the object of finding out any misconduct on the part of officer. It is done only with a view to decide whether he is to be retained or discontinued in service. In para 22 of the said judgment, various examples are given to understand as to when order of termination should not be construed stigmatic. If the factual matrix of the present case is tested on the aforesaid enunciation of law, we find that the order is not stigmatic.

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1 (1999) 2 SCC 21

6. The relationship between the employer and employee are purely contractual and the employer has taken a decision not to extend the period of contract, on the basis of criteria decided by the employer, the court cannot give a finding on the sufficiency or, otherwise, of the criteria or reason for non-extension of the services of an employee. Hence, we do not find any substance in the instant writ appeal and accordingly we affirm the order passed by the learned Single Judge.

7. The writ appeals are accordingly dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(PURUSHAINDR KUMAR KAURAV)**  
**JUDGE**