

Through the order impugned by the petitioner, his services were terminated.

I have heard counsel for the parties and with their able assistance, have also gone through the record of the case.

Counsel for the petitioner has argued that the order of termination is stigmatic and since the same has been passed in violation of principles of natural justice, the same is liable to be set aside. Counsel further argues that the Appointing Authority of the petitioner was Civil Surgeon, Ambala, who has not passed the order impugned by him and resultantly, the impugned order is liable to be set aside on that score alone. He further submits that the order terminating the services of the petitioner has been passed on the basis of pressure exerted by the Director General of Health Services, Haryana, who is not the Appointing or Punishing Authority of the petitioner. In support of his contentions, learned counsel for the petitioner relied on the following judgments :-

1. **Anant R. Kulkarni v. Y. P. Education Society and others** reported as **2013 (6) SCC 515**,
2. **Union Territory of Chandigarh and others v. Central Administrative Tribunal, Chandigarh Bench and others** reported as **2011 (2) RSJ 219**,
3. **Pawan Kumar v. State of Haryana and others** - **C. W. P. No. 6141 of 2005** decided on **25.04.2005**.

Per contra, learned State counsel appearing on behalf of the

respondents has defended the termination order. It has been stated that the petitioner was working on contract basis and since his work and conduct was not found to be good, after holding fact finding inquiries, in which he was associated, his services have been terminated. It is submitted that the petitioner had been appointed under the NRHM and his services have been terminated under orders of the Project Director of the NRHM, who was competent to do so.

From the perusal of the record and the arguments raised at the bar, it is apparent that while the petitioner was working on contract basis, several complaints qua his work and conduct were received. To verify the veracity of such complaints, two fact finding inquiries were conducted. In one of the inquiries conducted by Dr. Jasjeet Kaur, Deputy Director (Blood Safety), Haryana State AIDS Control Society, Panchkula, it was revealed that the petitioner not only misbehaved, but also used abusive words in vernacular language and threatened his colleagues. It was also found that he had been adopting lackadaisical attitude in performing his day to day duties in the office. He was also found to be in a habit of exerting political clout of his brother, who was the Personal Assistant of State President of a major political party. The relevant portion of the Inquiry Report is reproduced below :-

*“On careful consideration and
going through the complete record and
report of the inquiry committee in reference*

to the complaint made by the assistant Satbir Kaur of GH, Ambala City, I, Dr. (Major) G. Kumar have come to the conclusion that the allegations against Mr. Arvind Sharma (a contractual employee), Information Assistant, GH Ambala have been substantiated.

He not only misbehaved, used abusive words in vernacular language and threatened his colleague Ms. Satbir Kaur but also has been adopting the lackadaisical attitude in performing his day to day work in the office. He also keeps on threatening his colleagues about their transfer through his political connection. His behaviour towards the general public coming to the hospital is also not commendable earlier also he has been warned by the PMO, GH, Ambala City to improve his behaviour but it didn't cut any ice. I feel and recommend that the end of justice will only be met if strict disciplinary action is taken against Mr. Arvind Sharma with immediate effect and

this exemplary punishment will act as a deterrent for others also. [Emphasis supplied]”

In another fact finding inquiry, conducted by a Committee of two Senior Medical Officers, the petitioner was also found guilty. In this inquiry, several co-employees of the petitioner namely Satbir Kaur, Om Parkash Bhamani, Kiran Bala, Kumari Neetu Gupta, Dwaraka Parshad, Yatinder Kumar, Rajkumar, Om Parkash and Sujata vouched for the petitioner's bad behaviour with his colleagues. They further apprised the Inquiry Committee that the petitioner was in the habit of threatening his colleagues of getting them transferred and that he openly proclaimed that he had got several doctors and employees transferred at the behest of his brother Anil Sharma, who was Personal Assistant to the State President of a major National Political Party. Even a retired employee Smt. Trilochan Guglani appeared before the Inquiry Committee and stated that the petitioner's attitude was lackadaisical. She also corroborated with regard to the petitioner giving threats to his colleagues. Santosh Kumari, who had been transferred from the office, where the petitioner worked, also appeared before the Inquiry Committee and stated that when she asked the petitioner to do his work properly, he had threatened her, after which she was transferred.

The petitioner produced his defence witnesses, who stated that

the petitioner was well-behaved in the office.

After considering the facts, which were placed before the Inquiry Committee, a finding of guilt was returned against the petitioner as under :-

“In view of the complaints and explanations obtained from office record and statements of witnesses, the enquiry committee has reached on the conclusion that all allegations levelled by the complainant are proved. Sh. Arvind Sharma did not take interest in the office work, he misbehaves with the colleagues and uses unparliamentary language and also gives threats to employees to get them transferred. Therefore Sh. Arvind Sharma is guilty for his wrong doings and misconduct. Disciplinary action may be taken against him as per rules.

Enclosed : 1. Statement of all witnesses and documents from Page No. 6 to 39.

2. Documents submitted by Arvind Kumar Sharma regarding his conduct (Annex-K).

Sd/-

Sd/-

(Dr. Manisha Aggarwal) (Dr. K. S. Rana)
Senior Medical Officer Senior Medical Officer

General Hospital, Ambala City.”

From the above, it is clear that in both the above referred fact finding inquiries, in which the petitioner was duly associated, rather in one of which he was also allowed to and he did produce his defence, findings of guilt have been returned against him to the effect that he was in a habit of using unparliamentary language with his colleagues and was generally abusive in nature. It was further found that he shirked work and used to threaten his co-employees by exerting political clout of his brother.

In addition to the above, on complaints of Smt. Kiran Bala and Smt. Santosh Kumari, who were working as Clerks in the same office as the petitioner, the Civil Surgeon, Ambala, through letter dated 16.10.2009, had warned the petitioner to improve his behaviour and behave decently with all his co-employees but to no avail.

The record further reveals the following complaints qua the petitioner :-

<u>Date</u>	<u>Contents</u>	<u>By whom</u>
29.03.2007	Absent from duty	Mrs. Trilochan Guglani
17.04.2007	Did not arrive on duty in time	Mrs. Trilochan Guglani
15.09.2009	Did not do Hindi type work properly	Mrs. Satbir Kaur, Kiran Bala and Santosh Kumari

16.10.2009	To run the work of the office smoothly	Civil Surgeon
22.01.2010	With regard to misbehaviour of the petitioner	Om Parkash Bhamani, Store Keeper
05.04.2010	The petitioner was not found present on his seat.	Kamla Bharti Member Panchayat
17.04.2010	Did not provide record which he was supposed to	Dr. Pabnish Aggarwal, M. O.
20.04.2010	Regarding misconduct on the part of the petitioner	Ashok Kumar
26.04.2010	Non-cooperative attitude of the petitioner was highlighted	Dr. K. S. Rana Senior Medical Officers
07.05.2010	Explanation of the petitioner was called for	P. M. O. Ambala
10.05.2010	Refused to do Govt. work	P. M. O. Ambala
10.05.2010	Regarding misconduct of the petitioner	Class-IV employees of the hospital
13.05.2010	Threat to Sujata to get her transferred	Sujata, Data Entry Operator

From the above facts, the irresistible conclusion, which can be

drawn is that the petitioner, who was a contractual employee, was not discharging his duties, as were expected from him. He has thus rightly been shown the door as per the terms of his appointment. The fact finding inquiries, in which he was associated and in one of which, he even produced defence witnesses, according to me, are sufficient compliance with the principles of natural justice to do away with the services of a contractual employee.

The order dated 06.09.2013, through which the petitioner's services were terminated, is reproduced below :-

“Sub. *Enquiry Report – For Consideration
of a few facts against Mr. Arvind
Sharma (Previous was posted at GH,
Ambala City) Information Assistant.
In reference to letter no. NRHM-
2013/2293 and NRHM-2013/2301 dated
06.09.2013 of Member Secretary-cum-Civil
Surgeon, District Health and Family Welfare
Society, Ambala on subject cited above.
In compliance to the letter no. 4356
dated 22.08.2013 of Deputy Commissioner,
Ambala your services are henceforth terminated
from 07.09.2013 after giving you 24 hrs notice
today i.e. 06.09.2013.*

*Sd/-
Senior Medical Officer,
General Hospital,
Ambala Cantt.”*

The above order of termination of services of the petitioner can, by no length of imagination, be termed as stigmatic.

The order, on which the impugned termination order is based, has been addressed by the Civil Surgeon, Ambala to the Senior Medical Officer, General Hospital, Ambala Cantt. That is an internal communication and is not even addressed to the petitioner. Even otherwise, a perusal of the same shows that it refers to only the fact finding inquiries, which had been conducted to inquire into the complaints received against the petitioner. It may be noted that the petitioner was associated in these inquiries. He had voluntarily taken part in the same and had never challenged the institution thereof. Even today, the same have not been challenged.

The argument raised by counsel for the petitioner, to the effect that it was the Civil Surgeon, Ambala, who was the Appointing Authority of the petitioner and only he could have terminated the services of the petitioner, is an argument, which is to be considered only to be rejected.

It is undisputed that the petitioner was appointed under the NRHM. The Project Director, NRHM, after going through a Memo by the Director General, Health Services, Haryana, which was based on the fact finding inquiries conducted against the petitioner, through his letter dated 17.12.2012 (Annexure R-3), had, apparently after going through the same,

asked the Civil Surgeon, Ambala to take necessary action. Accordingly, action was taken and the services of the petitioner were terminated. Thus, the services of the petitioner were terminated under orders of the competent Authority. Even otherwise, through letter dated 06.09.2013 (Annexure P-21), it is the Civil Surgeon, Ambala, who, while referring to the above referred Memo, asked the Senior Medical Officer, General Hospital, Ambala Cantt. to terminate the services of the petitioner.

Thus, viewed from any angle, the services of the petitioner were rightly terminated.

The judgments cited by learned counsel for the petitioner are distinguishable. In the case of **Union Territory of Chandigarh** (*supra*), the order of termination was per se stigmatic containing a punishment of debarring the employee therein from future employment, which is not the case herein.

In **Pawan Kumar's** (*supra*), the impugned orders therein were set aside as the same were found to be in violation of principles of natural justice. In the case in hand, there is no violation of principles of natural justice.

So far as case of **Anant R. Kulkarni** (*supra*) is concerned, that case pertained to an inquiry against a retired employee, who was working on regular basis. In that case, the employee therein was issued a vague charge-sheet, which was one of the main grounds to challenge the same. The facts of the case in hand are completely different.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 17.08.2015
monika