

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.3669 of 2010**

Devindra Kumar Patel, S/o. Shri Dilchand Prashad Patel, aged about 41 years, R/o. Post-Mura, Tahsil-Kharsia, District-Raigarh (CG) presently posted as Assistant Grade-III, District Project Office, Rajeev Gandhi Shiksha Mission, Raigarh, District-Raigarh (CG)

----- **Petitioner**

Versus

- 1.State of Chhattisgarh, Through Secretary, School Education Department / Sarva Shiksha Abhiyan, D.K.S. Bhawan, Raipur, District Raipur (CG)
- 2.Mission Director, State Project Office, Rajeev Gandhi Shiksha Mission, Chhattisgarh Raipur, District Raipur (CG)
- 3.Collector & District Mission Director, Rajeev Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Raigarh, District-Raigarh (CG)
- 4.Chief Executive officer & District Project Director, Rajeev Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Raigarh, District-Raigarh (CG)
- 5.District Project Coordinator, Rajiv Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Raigarh, District-Raigarh (CG)

----- **Respondents**

For Petitioner	:	Mr.Manoj Paranjape, Advocate
For Respondent No.1	:	Mr.Sunil Otwani, Addl.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

16.6.2021

- 1.Proceedings of this matter have been taken-up through video conferencing.
- 2.The petitioner calls in question the order dated 25.6.2010 (Annexure P-1) by which his services on the post of Assistant Grade III on contract basis has been terminated finding him guilty of misconduct.

3. Mr. Manoj Paranjape, learned counsel for the petitioner, would submit that though the petitioner was working on contractual basis since long, but he was served with show-cause notice dated 22.6.2010 (Annexure P-7) alleging misconduct and irregularity in performance of the duty which he has replied and ultimately, by order dated 25.6.2010 (Annexure P-1) his services have been terminated w.e.f. 24.7.2010, as such, the order is stigmatic and not simpliciter. Such an order has been passed without holding an enquiry, therefore, it is liable to be quashed. He would rely upon the judgment of the Madhya Pradesh High Court in the matter of Rahul Tripathi v. Rajeev Gandhi Shiksha Mission, Bhopal¹.

4. On the other hand, Mr. Sunil Otwani, learned Additional Advocate General for respondent No.1/State, would support the impugned order (Annexure P-1) passed by the respondents-authorities. He would further submit that since there is an allegation of misconduct against the petitioner, his services have been terminated in accordance with Rajiv Gandhi Prathamik Shiksha Mission Regulations.

5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove

¹ 2001(3)MPLJ 616

and also went through the records with utmost circumspection.

6. It is not in dispute that the petitioner was appointed by order dated 22.8.95 (Annexure P-3) on the post of Assistant Grade III on contract basis in the office of District Project Coordinator, Rajiv Gandhi Shiksha Mission, Raigarh and he continued from time to time on the basis of extension of one year contract, but this time after serving show-cause notice dated 22.6.10 (Annexure P-7) he has been found guilty of misconduct and his services have been directed to be terminated w.e.f. 24.7.2010 after a period of one month as required under Rule 14(ii) of the Chhattisgarh Civil Sewa (Samvida Niyukti) Rules, 2004 (hereinafter called as 'Rules of 2004').

7. Rule 14 (i) and (ii) of the Rules of 2004 states as under:-

"14. Other conditions:-

(i) Persons appointed on contract shall be governed by the Chhattisgarh Civil Service (Conduct) Rules, 1965.

(ii) During the course of appointment, either of the parties may terminate the appointment, by giving one month's notice in advance or paying one month's salary in its place."

8. A careful perusal of the aforesaid provisions would show that the persons appointed on contract shall be governed by the Chhattisgarh Civil Service (Conduct)

Rules, 1965 and by virtue of Rule 14(ii) of the Rules of 2004 during the course of appointment, either of the parties may terminate the appointment, by giving one month's notice in advance or paying one month's salary in its place, as such, it is quite apparent that this termination under Rule 14(ii) of the Rules of 2004 would be termination simpliciter by giving one month's notice in advance or payment one month's salary in advance.

9. The Madhya Pradesh High Court in the matter of **Rahul Tripathi** (supra) has clearly held that even in contractual appointment, if termination is punitive or stigmatic, services of contract employee cannot be terminated without holding an enquiry.

10. Reverting to the facts of the present case and following the principle of law laid down by the Madhya Pradesh High Court in **Rahul Tripathi** (supra), it is quite vivid that in the instant case, by order dated 25.6.10 (Annexure P-1), the petitioner's services sought to be terminated from 24.7.2010 is clearly stigmatic or punitive on the basis of finding of misconduct, which is not a termination simpliciter in terms of Rule 14(ii) of the Rules of 2004, but the petitioner's services has been terminated without holding an enquiry in accordance with law particularly

when Rule 14(i) of the Rules of 2004 clearly speaks that persons appointed on contract shall be governed by the Chhattisgarh Civil Service (Conduct) Rules, 1965, as such, the petitioner's services could not have been directed to be terminated after one month without holding departmental enquiry, it is contrary to Rule 14(ii) of the Rules of 2004 as well as the decision rendered by the Madhya Pradesh High Court in Rahul Tripathi (supra).

11. Accordingly, the impugned order dated 25.6.10 (Annexure P-1) is hereby quashed. However, the petitioner will not be entitled for any benefit on the basis of this order as period of one year has already been expired during the pendency of this writ petition. However, this order will not bar the respondents to appoint the petitioner, if any, on contract basis, if he is eligible and in accordance with law.

12. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-