

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-19983-2020.
Date of Decision:-15.01.2021.

Sanjeev Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Gopal Sharma, Advocate for the petitioner.

Mr. Minderjeet Yadav, DAG, Haryana.

SANJAY KUMAR, J. (Oral)

The petitioner, a Post-Graduate Teacher (English) in the Government Senior Secondary School, Kawartan, Kaithal, was dismissed from service by the Principal Secretary, School Education Department, Government of Haryana, *vide* order dated 20.02.2020 (Annexure P-8). This dismissal was effected without holding an inquiry by taking recourse to the provisions of Article 311 (2) (b) of the Constitution. This provision, to the extent relevant, reads as under:-

“311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State--(1) No person who is a member of a

civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

[(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

xxxx-----xxxxx-----xxxx

Provided further that this clause shall not apply-

(a) xxxx-----xxxxx-----xxxx

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

xxxx-----xxxxx-----xxxx. ”

It is well settled that the authority concerned has to record reasons as to why it is not practicable to hold an inquiry in a particular case (see **'Hari Niwas Gupta Vs. State of Bihar and another' [(2020) 3 SCC 153]**). Merely because the allegations leveled against an employee are serious in nature, it would not, by itself, be sufficient to peremptorily dispense with the services of such employee, by taking cover under the aforestated Constitutional provision.

The impugned dismissal order dated 20.02.2020 (Annexure P-8) reflects that the authority did not even attempt to offer a reason as to why it was not practicable to hold an inquiry. All that was stated, after

extracting the Constitutional provision, was that the Governor of Haryana was pleased to order that it is not reasonably practicable to hold an inquiry in the case. This bald assertion of an opinion, without supporting reasons, does not meet the requirement of the Constitutional mandate. When the dire and irreversible consequence of dismissal from service is being visited upon an employee, the least that is required is faithful adherence to the due procedure. Article 311 (2) (b) of the Constitution is an exception to the general norm that no employee can be dismissed from service without a proper inquiry and a reasonable opportunity of hearing. That being so, the mandate of the provision with regard to recording of reasons has to be scrupulously adhered to. The impugned dismissal order dated 20.02.2020 (Annexure P-8) does not conform to this expectation.

The writ petition is accordingly allowed setting aside the impugned dismissal order dated 20.02.2020 (Annexure P-8) with all concomitant consequences.

There shall be no order as to costs.

(SANJAY KUMAR)
JUDGE

January 15, 2021.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.