

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-7820-2022 (O&M)

Date of decision: 09.08.2024

Reena Rani

....Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sunil K. Nehra, Advocate for the petitioners.

Mr. Dushyant Saharan, AAG Haryana.

AMAN CHAUDHARY, J.

1. The grouse of the petitioner is against order dated 27.04.2021, Annexure P-4, whereby her services have been terminated without holding any regular enquiry.

2. The petitioner while employed as ANM on contract basis, was implicated in FIR dated 23.02.2021, that led to her removal from service vide the impugned order, without following principles of natural justice and holding any enquiry, which is in teeth of judgment passed in **Union of Territory of Chandigarh and others vs. Central Administrative Tribunal, Chandigarh Bench and others¹**, wherein it was held that adhoc or contractual employees cannot be shown the door without holding departmental enquiry, even if termination of services was founded on the basis of misconduct.

3. The order impugned is apposite to be referred to here, which reads thus:

“That you were working on the post of ANM at FRU-2, Sector 3, Faridabad. Vide letter No. 432-33 dated

¹ 2011(1) SCT 777.

03.03.2021 of Senior Health Officer, FRU-2, one FIR has been registered against you on 23.02.2021 under Section 4, 5, 6, 23, 29 read with Rule 9, 10 and 18 of PC PNDT Act, U/S MTP U/S 332, 353, 420, 12B IPC, FIR number of which is 0121. According to the police station Aggersen Chowk, you remained lodged in Karnal Jail. Therefore your contract is terminated with effect from 23-02-2021 as per Clause No.6 of your letter of contract and whatever becomes due to you on behalf of the department will be given to you.”

4. In a similar vein, the petitioner in **Minakshiben Laxmanbhai Paraliya vs. State Of Gujarat**² a contractual appointee, terminated from service solely on lodging of an FIR, as mentioned in the order passed without conducting any regular enquiry, the same was set aside holding it to be stigmatic.

5. The issue pertaining to the circumstances wherein discharge orders cast stigma, has been settled by the Constitution Bench of Hon’ble the Supreme Court in **Jagdish Mitter vs. Union of India**³, wherein it was observed and held that, “...When an authority wants to terminate the services of a temporary servant, it can pass a simple order of discharge without casting any aspersion against the temporary servant or attaching any stigma to his character. As soon as it is shown that the order purports to cast an aspersion on the temporary servant, it would be idle to suggest that the order is a simple order of discharge. The test in such cases must be: does the order cast aspersion or attach stigma to the officer when it purports to discharge him? If the answer to this question is in the affirmative, then notwithstanding the form of the order, the termination of service must be held, in substance, to amount to dismissal. That being so, we are satisfied that the High Court was in error in coming to the conclusion that the appellant had not been dismissed, but had been merely discharged. It is conceded that if the impugned order is construed as one of dismissal, the appellant has been denied the protection

² 2022 (1) SCT 736.

³ 1963 SCC OnLine SC 75.

guaranteed to temporary servants under Section 240(3) of the Government of India Act, 1935, or Article 311(2) of the Constitution, and so, the order cannot be sustained.”

6. Gainfully the judgment in **Feroz Ahmad Sheikh vs. Union Territory of J&K**⁴, can be referred, the petitioner therein, employed on consolidated/need/contractual/contingency basis, was disengaged by an order that was set aside, it being stigmatic and punitive and passed without affording him an opportunity of hearing, while relying on the judicial pronouncements of Hon’ble the Supreme Court in **Director General of Police and others vs. Mrityunjoy Sarkar and others**⁵ as also **K.C. Joshi vs. Union of India and others**⁶.

7. Since, apparently the impugned order nudges opinions leading to casting of aspersions, it is innately stigmatic.

8. On cumulative consideration of the matter, the impugned order dated 27.04.2021, Annexure P-4, is hereby set aside. The respondents are directed to reinstate the petitioner within a period of two months.

9. Disposed of accordingly.

09.08.2024

Hemant

Whether speaking/reasoned
Whether reportable

(AMAN CHAUDHARY)
JUDGE

: Yes / No
: Yes / No

⁴ WP(C)-2260-2022, decided on 16.12.2023.
⁵ (1996) 8 SCC 280.
⁶ (1985) 3 SCC 153.