

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3454 of 2025

Namrata Singh W/o Rahul Ranjan Kumar, Resident of Village- Sasaram,
District- Rohtas.

... .. Petitioner/s

Versus

1. Chanakya National Law University, through its Vice-Chancellor, Nyaya Nagar, Mithapur, Patna-800001.
2. The Registrar, Chanakya National Law University, Nyaya Nagar, Mithapur, Patna-800001.
3. The Assistant Registrar, Chanakya National Law University, Nyaya Nagar, Mithapur, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ayushman Kishore, Advocate
For the Respondent/s	:	Mr. P. K. Shahi, Sr. Advocate Mr.Ranjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 04-03-2025

Heard Mr. Ayushman Kishore, learned counsel
appearing on behalf of the petitioner and Mr. P. K. Shahi,
learned Senior Counsel along with Mr. Ranjeet Kumar, learned
counsel for the University.

2. Petitioner has *inter alia* prayed for following reliefs
in the paragraphs No.1 of the writ petition:-

*“That the petitioner through this instant
petition praying for issuance of a writ in the nature of
certiorari or any other appropriate writ, order or
direction, for grant of following reliefs:-*

*a. For quashing of the office Order No.
CNLU/Contract Engagement/Warden/566/2019-25-1527
dated 01.02.2025, whereby in the most arbitrary manner,*



the contractual engagement of petitioner as Warden, Girls' Hostel, Chanakya National Law University was wrongfully terminated with effect from 14.02.2025.

b. For holding that the petitioner is entitled to continue in the service as Warden, Girls' Hostel, Chanakya National Law University without any hindrance and the petitioner further entitled to salary/remuneration as she was getting prior to issuance of the Office Order No.CNLU/Contract Engagement/Warden/566/2019-25-1527 dated 01.02.2025.

c. For granting a stay on the Office Order No.CNLU/Contract Engagement/Warden/566/2019-25-1527 dated 01.02.2025 during the pendency of present writ petition.

d. For issuance of any other appropriate relief or reliefs which the petitioner may be deemed entitled to."

3. Learned counsel appearing on behalf of the petitioner informs this Court that order of termination communicated to the petitioner *vide* letter no.01.02.2025 (Annexure P/8) is in background of Clause 15 of the engagement letter dated 26.06.2019, which prescribes that if at any time, the conduct is found unbecoming, the petitioner may be disengaged at once, without any notice. Learned counsel further submitted that petitioner is aggrieved by the remark made in communication dated 12.02.2025 by the Registrar of the University, amounting to stigma. Remark will affect the future engagement of the petitioner being punitive in nature. No opportunity of hearing was provided before passing the punitive order. In the present case, first the petitioner has been removed and then answering to the legal notice *vide* letter dated 12.02.2025, reason has been given for her removal containing



stigma on her character which requires holding of enquiry as per requirement of Article 311(2) of the Constitution of India.

4. *Per contra*, Mr. P. K. Shahi, learned Sr. Advocate appearing on behalf of the Chanakya National Law University submitted that the letter dated 12.02.2025, in no manner, is going to affect the future career of the petitioner, as step has already been taken to withdraw the communication dated 12.02.2025, containing remark against the petitioner for all the time from the records and will also issue a certificate to the petitioner, as a result of which, in no manner, the order of termination, as contained in Notification No.566 dated 01.02.2025 can be held to be punitive in absence of any alleged misconduct remaining on record.

5. Heard the parties.

6. The petitioner was engaged on contract basis on the post of Warden, Girls' Hostel which was communicated to her vide letter dated 26.06.2019, containing 15 terms and conditions. The engagement letter has been brought on record by way of Annexure P/1. The conditions of contract particularly contained in Paragraphs no.7, 14 and 15 would be important in deciding the present writ petition which are reproduced hereinafter:-

"7. Your contractual engagement may be



disengaged by the University with 14 days' prior notice or one month emoluments.

14. Upon acceptance of this position you will be subject to the University's Code of Conduct. Rules, Regulations and Statutes etc. and obligated both to strengthen and uphold them.

15. If at any time your conduct is found unbecoming you may be disengaged at once without any notice."

7. The law in respect of termination or removal of an employee engaged on contract basis is well settled by the Apex Court in ***Purushottam Lal Dhingra vs. Union of India*** reported in ***1957 SCC Online SC 5***. It would be apt to reproduce paragraph no. 28 of the said judgment:

"28. The position may, therefore, be summed up as follows : Any and every termination of service is not a dismissal, removal or reduction in rank. A termination of service brought about by the exercise of a contractual right is not per se dismissal or removal, as has been held by this Court in Satish Chander Anand v. Union of India [(1953) 1 SCC 420 : (1953) SCR 655] . Likewise the termination of service by compulsory retirement in terms of a specific rule regulating the conditions of service is not tantamount to the infliction of a punishment and does not attract Article 311(2), as has also been held by this Court in Shyam Lal v. State of Uttar Pradesh [(1955) 1 SCR 26] . In either of the two abovementioned cases the termination of the service did not carry with it the penal consequences of loss of pay, or allowances under Rule 52 of the Fundamental Rules. It is true that the misconduct, negligence, inefficiency or other disqualification may be the motive or the inducing factor which influences the Government to take action under the terms of the contract of employment or the specific service rule, nevertheless, if a right exists, under the contract or the rules, to terminate the service the motive operating on the mind of the Government is, as Chagla, C.J., has said in Shrinivas Ganesh v. Union of India [LR 58 Bom 673 : AIR (1956) Bom 455] wholly irrelevant. In short, if the termination of service is founded on the right flowing from contract or the service rules then, prima facie, the termination is not a punishment and carries with it



no evil consequences and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a punishment and the requirements of Article 311 must be complied with. As already stated if the servant has got a right to continue in the post, then, unless the contract of employment or the rules provide to the contrary, his services cannot be terminated otherwise than for misconduct, negligence, inefficiency or other good and sufficient cause. A termination of the service of such a servant on such grounds must be a punishment and, therefore, a dismissal or removal within Article 311, for it operates as a forfeiture of his right and he is visited with the evil consequences of loss of pay and allowances. It puts an indelible stigma on the officer affecting his future career. A reduction in rank likewise may be by way of punishment or it may be an innocuous thing. If the government servant has a right to a particular rank, then the very reduction from that rank will operate as a penalty, for he will then lose the emoluments and privileges of that rank. If, however, he has no right to the particular rank, his reduction from an officiating higher rank to his substantive lower rank will not ordinarily be a punishment. But the mere fact that the servant has no title to the post or the rank and the Government has, by contract, express or implied, or under the rules, the right to reduce him to a lower post does not mean that an order of reduction of a servant to a lower post or rank cannot in any circumstances be a punishment. The real test for determining whether the reduction in such cases is or is not by way of punishment is to find out if the order for the reduction also visits the servant with any penal consequences. Thus if the order entails or provides for the forfeiture of his pay or allowances or the loss of his seniority in his substantive rank or the stoppage or postponement of his future chances of promotion, then that circumstance may indicate that although in form the Government had purported to exercise its right to terminate the employment or to reduce the servant to a lower rank under the terms of the contract of employment or under the rules, in truth and reality the Government has terminated the employment as



and by way of penalty. The use of the expression "terminate" or "discharge" is not conclusive. In spite of the use of such innocuous expressions, the court has to apply the two tests mentioned above, namely, (1) whether the servant had a right to the post or the rank, or (2) whether he has been visited with evil consequences of the kind hereinbefore referred to? If the case satisfies either of the two tests then it must be held that the servant has been punished and the termination of his service must be taken as a dismissal or removal from service or the reversion to his substantive rank must be regarded as a reduction in rank and if the requirements of the rules and Article 311, which give protection to government servant have not been complied with, the termination of the service or the reduction in rank must be held to be wrongful and in violation of the constitutional right of the servant."

8. The Hon'ble Supreme Court had gone into to determine, as to whether, the service of a person claiming continuation was satisfactory then it cannot be held to be as a result of any evil consequences calling for any disciplinary action and in this regard, I find it proper to refer the Apex Court judgment rendered in the case of ***State of U.P. & Ors. Vs. Ram Bachan Tripathi*** reported in ***(2005) 6 SCC 496*** and in case of ***Rajesh Kumar Srivastava vs. the State of Jharkhand & Ors.*** reported in ***(2011) 4 SCC 447***.

9. In respect of the character of termination which resulted into taking of disciplinary action on account of misconduct involving stigma has now recently been crystallized in the case of ***Swati Priyadarshini vs. the State of Madhya***



Pradesh & Ors. (Civil Appeal No.9758 of 2024 arising out of Special Leave Petition (C) No.11685 of 2021), wherein the Hon'ble Supreme court has held that even in the case of contractual employee before the order which is punitive in nature is passed, the minimum requirement is to provide opportunity of hearing after holding the inquiry and giving reason for the same.

10. Now I proceed to discuss in the fact of the present case, as to whether, the termination order as contained in Notification No.566 dated 01.02.2025 can be held to be punitive on account of alleged misconduct contained in subsequent communication dated 12.02.2025 made to the petitioner modifying the order.

11. In the present case, the petitioner has not pleaded calling for interference with the termination order on the ground that it is punitive in nature and it does require enquiry to get protection of Article 311(2) of the Constitution of India.

12. Reliance in this regard can be placed upon paragraph no. 10 of the judgment of the Apex Court passed in the case of ***State of U.P. and Anr. v/s Kaushal Kishore Shukla***, reported in, ***(1991) 1 SCC 691*** which is, *inter alia*, reproduced



hereinafter:

“10.In Jagdish Mitter case [AIR 1964 SC 449 : (1964) 1 LLJ 418 : 1964 Cur LJ (SC) 66] a Constitution Bench of this Court held that every order terminating the services of a temporary public servant does not amount to dismissal or removal from service merely because an inquiry was held before the order of termination was passed. The court observed that the appropriate authority has power to terminate a temporary public servant either by discharging him under the terms of contract or the relevant rules or by holding departmental disciplinary inquiry and dismissing him from service. Before passing order of termination the competent authority may hold inquiry in fairness to ascertain whether the temporary servant should be continued in service or not. While discussing the nature of preliminary inquiry the court observed as under: (AIR p. 453, para 11)

“There is no element of punitive proceedings in such an enquiry; the idea in holding such an enquiry is not to punish the temporary servant but just to decide whether he deserves to be continued in service or not. If as a result of such an enquiry, the authority comes to the conclusion that the temporary servant is not suitable to be continued, it may pass a simple order of discharge by virtue of the powers conferred on it by the contract or the relevant rule; in such a case, it would not be open to the temporary servant to invoke the protection of Article 311 for the simple reason that the enquiry which ultimately led to his discharge was held only for the purpose of deciding whether the power under the contract or the relevant rule should be exercised and the temporary servant discharged.”

13. Learned Senior Advocate has already submitted that the letter dated 12.02.2025 will be removed from the records of the University for all the time. I find that impugned office order of termination, contained in Letter No.566/2019-25-1527 dated 01.02.2025 cannot be said to be punitive in any manner as it don't contain any remark of stigma. In view of the binding terms of contract as contained in paragraph no.7 of the engagement letter, the contract engagement may be



disengaged by the University with 14 days' prior notice or one month emoluments.

14. Now the question arises after the recall of communication dated 12.02.2025 whether the order will amount to termination simplicitor or it will amount to be punitive in nature, affecting the future employment, calling for interference by this Court in view of the law laid down by the Apex Court referred hereinabove.

15. In the fact of the present case, I find it proper to hold that having regard to the terms and conditions of the offer of appointment provided to the petitioner by the respondents, the petitioner don't derive any legal right who has continued as a contractual employee on specific terms and conditions agreed by her when there remains no punitive remarks against the petitioner.

16. The petitioner can avail future opportunity of being engaged as and when such post is vacant. This Court finds that in view of the information given by the learned Sr. Counsel, the University is required to delete the remark which is contained in Letter dated 12.02.2025 (Annexure P/12) from the records and restrain from making any adverse communication in respect of reference of the petitioner to any of the



organization. Further the University should not take that as a measure to spoil the future career of the petitioner.

17. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.03.2025
Transmission Date	NA

