



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

CWP-6042-2020

Date of Decision: 08.08.2025

SANDEEP

...PETITIONER

Vs.

STATE OF HARYANA AND ORS.

...RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Sanchit Punia, Advocate
for the petitioner(s).

Mr. Vivek Chauhan, Addl. Advocate General, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

1. The instant writ petition has been instituted assailing (i) the letter dated 12.02.2020 initiating inquiry against the petitioner on the allegation of having uploaded a post on social media, which is a criticism of the Government; (ii) the Show Cause Notice dated 14.02.2020 proposing action for allegedly posting comments on social media against the Chief Minister, and (iii) the consequential order dated 18.02.2020 whereby the services of the petitioner were terminated.
2. Learned counsel for the petitioner submits that the petitioner had applied for the post of Data Entry Operator (for short, 'DEO') and, upon successfully clearing the written examination, type test, and interview, was duly selected and appointed as a DEO. His contractual engagement, initially made in 2014, was extended annually and

**CWP-6042-2020****-2-**

continued uninterrupted till 2020. It is argued that the petitioner's employment, being contractual in nature, was governed by the Service Bye-Laws Governing the Conditions of Service of the Contractual Employees of State Health Mission, Haryana, 2018 (for short, 'Rules of 2018'). During the relevant period, a newspaper report surfaced carrying the headline Mein Kewal Punjabiyan Ka CM, Baki Jaatiyon Se Koi Lena Dena Nahin: Khattar (I am Chief Minister of Punjabis only, nothing to do with other castes). Said report, having gone viral, was also posted on the petitioner's Facebook page and was also shared by him with one Amit Gulati and it was removed within an hour. Thereafter, on 07.02.2020, the Deputy Civil Surgeon urgently summoned the petitioner and apprised him of instructions received from the Office of the OSD to the Chief Minister, Haryana, directing the Civil Surgeon to initiate action against the petitioner in respect of the said Facebook post and to submit a report. The petitioner was called upon to tender an apology, which he promptly did and it was apprised that the post was deleted from his account in the presence of the Deputy Civil Surgeon. A warning letter dated 07.02.2020 was however issued, cautioning him against any such future involvement. The matter was hence deemed closed. However, notwithstanding the aforesaid closure, another letter dated 13.02.2020 was served upon the petitioner by the Office of the Civil Surgeon, affording him an opportunity to respond, without supply a report or material. The petitioner nonetheless submitted his



reply thereto. Vide the impugned order dated 18.02.2020, his services came to be terminated on the ground of misconduct, alleging that he had engaged in posting and commenting against the Government. The termination was founded on Point No.6 of Contract No. SH/19/400 and Point No.19 of the Service Bye-laws Governing the Conditions of Service of the Contractual Employees of State Health Mission whereby Haryana Civil Services (Government Employees' Conduct) Rules, 2016 (for short, 'Rules of 2016') had been extended to govern contractual employees as well.

3. Learned counsel for the petitioner contends that the petitioner had neither authored nor posted any comment on the impugned Facebook post, nor had he created any content or comment, which could, in any manner be construed as a comment adverse to the Government. It is argued that, at no point of time, did the respondent-State dispute the existence of the said newspaper report itself or the statement having been made by the Chief Minister. The submission is that the petitioner merely shared a news report which was already in the public domain, and such act of sharing cannot by any stretch be equated with misconduct or branded as a comment or criticism attributable to the petitioner.
4. Per contra, learned counsel for the respondent-State contends that the petitioner does not dispute the fact that the disputed post was shared by him on the social media, Facebook, which contained derogatory remarks against the Hon'ble Chief Minister and it went viral. It is

**CWP-6042-2020****-4-**

submitted that although the said post was later removed, however, the remark made by the petitioner against the Chief Minister, being the constitutional head of the Government, amounts in effect to a remark against the Government itself, thereby constituting 'misconduct' within the meaning of the Rules of 2016. It is further argued that the action in question was initiated upon receipt of a telephonic message from the Office of the Chief Minister, Haryana. Pursuant thereto, the Deputy Civil Surgeon conducted a preliminary inquiry, followed by a detailed inquiry carried out by a Committee comprising two senior officers. The Committee, in its report dated 12.02.2020, recorded that the petitioner had admitted his lapse in posting the remarks against the Chief Minister on social media and consequently recommended that the same amounted to 'misconduct under the Rules of 2016'. Based on the said findings, departmental proceedings were initiated against the petitioner under the Rules of 2018, and after affording him an opportunity of hearing, his services were terminated.

5. I have heard the learned counsel for the parties at length and have carefully perused the pleadings as well as the documents annexed with the writ petition.
6. Before proceeding further, it would be apposite to refer to the relevant extract of the Haryana Civil Services (Government Employees' Conduct) Rules, 2016, which govern the field. The said provisions read as under :-

“



CWP-6042-2020

-5-

3.(a) "Government" means the Government of the State of Haryana;

5. Act and conduct which amount to misconduct.—

The following acts and omissions amount to misconduct:-

- (i) wilful insubordination or disobedience, whether alone or jointly with others, to any lawful and reasonable order of a superior;*
- (ii) infidelity, unfaithfulness, dishonesty, untrustworthiness, theft and fraud, or dishonesty in connection with the activities of the Government or handling of its property;*
- (iii) strike, picketing, gherao, striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law;*
- (iv) gross moral misconduct, acts subversive of discipline, riotous or disorderly behaviour during or after the office hours at any place;*
- (v) riotous and disorderly behaviour during and after the working hours or in work place;*
- (vi) negligence or neglect of work or duty amounting to misconduct;*
- (vii) habitual negligence or neglect of work or duty;*
- (viii) habitual absence without permission and over-staying leave;*
- (ix) conviction by a criminal court.*

The act or conduct of an employee may amount to misconduct—



CWP-6042-2020

-6-

(i) if the act or conduct is prejudicial or likely to be prejudicial to the interests of the employer/department or to the reputation of the employer/ department;

(ii) if the act or conduct is inconsistent or incompatible with the due or peaceful discharge of his duty to his employer/department;

(iii) if the act or conduct of a employee makes it unsafe for the employer to retain him in service;

(iv) if the act or conduct of the employee is so grossly immoral that all reasonable men say that the employee cannot be trusted;

(v) if the act or conduct of the employee is such that the employer/department cannot rely on the faithfulness of his employee;

(vi) if the act or conduct of the employee is such as to open before him temptations for not discharging his duties properly;

(vii) if the employee is abusive or if he disturbs the peace at the place of his employment;

(viii) if he is insulting and insubordinate to such a degree as to be incompatible with the continuance of the relation of employer/department and employee;

(ix) if the employee is habitually negligent in respect of the duties for which he is engaged;

(x) if the neglect of the employee though isolated, tends to cause serious consequences.



CWP-6042-2020

-7-

13. No Government employee shall, in any radio broadcast or communication over any electronic media or in any document published in his own name or anonymously or pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion---

(i) which has the effect of any adverse criticism of any current or recent policy or action of the Government of India, Government of Haryana or any other State Government;

(ii) which is capable of embarrassing the relations between the Government of Haryana and the Government of India or the Government of any other State in India; or

(iii) which is capable of embarrassing the relations between the Government of India or the Government of Haryana and the Government of any foreign State:

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government employee in his official capacity or in the due performance of the duties assigned to him."

7. Relevant Clause of Conditions of Contract reads thus:-

6. The Contract of Second Party can be terminated by the First Party in case of insubordination misconduct or unsatisfactory or poor performance at any time during the service.

8. The relevant portion of Service Bye-laws governing the conditions of service of the contractual employees of State Health Mission, Haryana, 2018 reads thus:-

3(v). 'Government' means Government of Haryana.



19. Conduct Rules

Haryana Civil Services (Conduct of Government employees) Rules, 2016 shall be applicable to all contractual employee provided for the words 'Government employee' wherever occurred in the said rules shall be deemed the words 'contractual employee', for 'pay' or 'basic pay' the 'remuneration', where necessary.

21(b) The contract of an employee shall be terminated by the Appointing Authority in case of insubordination, misconduct or unsatisfactory or poor performance at any time during the service."

9. The relevant extract of letter dated 13.02.2020 reads thus:-

".....It is conclusion of the enquiry committee that as per Point No.13 notification issued by Government of Haryana dated 19.07.2016 any comment passed by any Government employee against the Government on any social media or electronic media falls in 'Misconduct' category....."

10. The relevant extract of show cause notice dated 14.02.2020 reads as under:-

".....Hence you are directed that as per rules assuming



CWP-6042-2020

-9-

this letter as show cause notice present you reply by 10:00 AM on Monday i.e. 17.02.2019 as due to misconduct why your services should not be terminated.....”

11. The operative part of the impugned order dated 18.02.2020 is reproduced as under, which reads thus:-

*“.....**Subject:** Regarding termination of contract*

In connection with the above mentioned subject complaint received from Shri BhupeshwarDayal Sharma OSD to Hon'ble Chief Minister Haryana regarding you through Facebook post against the Government, per as orders issued by Civil Surgeon Hisar an enquiry was conducted on 12.02.2020 in which you had accepted that you executed the above said activity. The above mentioned activity falls under 'Misconduct' category. Civil Surgeon Hisar on 14.02.2020 issued you a show cause notice and you were asked to filed your reply by 17.02.2020

After this on 17.02.2020 the reply submitted by you could not satisfy him. As per point 6 of contract No. SH/19/400 year 2019-20 dated 01.07.2019, in case of misconduct it is very clearly mentioned that according which, "The conduct of second party can be by the first party in case terminated insubordination,



CWP-6042-2020

-10-

misconduct or poor performance at any time during the service.

Point serial No. 19:- Conduct Rules, "Haryana Civil Services (Conduct of Government employees) Rules 2016 shall be applicable to all contractual employees provided for the words "Government Employees" wherever occurred in the said rules shall be deemed the words "contractual employee" for "pay" or "basic pay" the remuneration "where necessary".

Point serial No. 21(b): Termination or Discontinuation of Contract "The Contract of terminated by an employee shall be the appointing authority in case of insubordination, misconduct or unsatisfactory or poor performance at any time during the service." Action has been taken under the above mentioned points.

After received sanction Chairperson-cum-Deputy from the Commissioner District Health and Family Welfare committee Hisar, today on 18.02.2020 your contract is revoked with immediate effect under point 6 and Service By laws point No. 19 and 21 (B)

12. It is evident from above that the show cause notice as well as the



order of termination was passed by referring to Bye-Laws 19 & 21(b) of the Service bye-laws of 2018 and invoking corresponding provisions of HCS (Conduct) Rules, 2016. It is evident that Bye-law 19 only extends the HCS (Conduct) Rules, 2016 to the contractual employees. Power of termination invoked in the present case is provided under Bye-law 21 and sub-clause (b) thereof empowers termination in cases of ‘insubordination, misconduct or unsatisfactory or poor performance’. The reason for termination cited by respondents is ‘misconduct’ as per conduct Rules of 2016. Interestingly, Rule 5 of the Conduct Rules prescribes as to what would constitute a ‘misconduct’. The impugned action in ‘tagging and sharing’ of a news item of the Chief Minister does not fall in the definition of ‘misconduct’. Noticeably, Rule 5 of the Conduct Rules is an exhaustive list of act or conduct that would fall in the definition of misconduct. The acts and omission mentioned therein are not illustrative but are exhaustive and complete unto itself. Significantly, conduct Rules of 2016 specify different act/omissions expected of a Government employee, however, in the Bye-law 21(b), instead of all acts of omission/commission under Conduct Rules of 2016, it only shortlists three different acts/omissions to be sufficient for termination of service and the same are:-

- a. insubordination; or
- b. misconduct; or
- c. unsatisfactory and poor performance.

The respondents have nowhere alleged or recorded in the



impugned proceedings or the order that the petitioner was guilty of ‘insubordination’ or had ‘unsatisfactory or poor performance’ and the same is also not a finding returned as per the inquiry report.

13. As a matter of fact, the act for which the petitioner is accused of is what is specifically provided under Rule 13 i.e. ‘criticism of the Government’. Significantly, breach of Rule 13 is not a cause recorded in Bye-law 21(b) for termination of service. The respondents have resorted to applying a generic meaning of ‘misconduct’ and have interpreted the same to apply as any and every breach of the ‘Conduct Rules of 2016’ is a misconduct. It may be a correct understanding of the expression misconduct by a layman, but the same is not how legislation is to be interpreted in circumstances when specific meaning has been assigned to the expression. When the Bye-laws referred to applicability of Conduct Rules under Clause 19 and 21(b) used the expression ‘misconduct’, it was to derive its meaning from the use of expression as per the Rules.

14. It needs no reiteration that Bye-laws cannot override the Rules and in the event of any disparity or conflict, Rules prevail upon the Bye-laws. The respondents have equated Rule 13 of the Conduct Rules of 2016 as a ‘misconduct’ even though ‘Rule 5’, which prescribes ‘misconduct’ does not cover criticism of the Government, as a misconduct. Having opted to apply the Rules of 2016 by extending the same under the Bye-laws, the respondents have to apply the misconduct in the way as defined under the Rules of 2016. It thus has



to be understood that despite different type(s) of act and conduct being provided for the employees' in the Conduct Rules of 2016, only one i.e. "misconduct" (as provided for under Rule 5) is the prescribed reason to terminate the services under Bye-law 21(b). If the authorities intended every omission/conduct under Rules of 2016 to be a reason for termination, the expression used in 21(b) would have been 'any breach of Conduct Rules, 2016' or 'any breach/omission of Rules of 2016' or 'any misconduct anywhere in Rules of 2016'. However, the respondents cannot use the solitary word 'misconduct' and expand its scope to the entire Conduct Rules of 2016. Applying it in the manner as projected would amount to interpreting and extending every Clause of Rules of 2016 as a potential misconduct, notwithstanding the specific definition. It would be an incorrect way of reading and applying statutes. The writ petition thus deserves to be allowed on this ground alone. However, as Rule 13 of Conduct Rules of 2016 is being relied upon, the same is also being dealt with.

15. A perusal of Rule 13 of the Haryana Civil Services (Government Employees' Conduct) Rules, 2016 makes it manifest that the rule is couched in mandatory terms and places a prohibition upon a Government employee from indulging in 'criticism' of the Government. It is equally significant to observe that the term "criticism of the Government" has to be interpreted in a contextual manner. While fair expression of opinion, bona fide suggestions or constructive feedback in appropriate forums may not fall foul of the

**CWP-6042-2020****-14-**

rule, any public expression, particularly through mass communication mediums such as print, electronic or social media, which tends to bring the Government into disrepute or lowers the esteem of its constitutional functionaries, falls within the mischief that Rule 13 seeks to prevent.

16. The rationale is that a Government servant, by virtue of his position, represents the neutrality of the State, and any deviation by way of adverse commentary directed against the Government may have a deleterious effect on both discipline within the service and confidence of the citizenry. Thus, the mandate of Rule 13 is not merely regulatory but also prohibitory in nature. It restrains employees from transgressing the boundary between private expression and public criticism, recognizing that a balance must be struck between the fundamental right to freedom of speech under Article 19(1)(a) of the Constitution and the reasonable restrictions permissible in the interest of maintaining discipline and efficiency in public service under Article 19(2).

17. Before applying the said Rule, the two expressions i.e. ‘criticism’ and ‘Government’ thus need to be understood and then the parameters are to be applied to the facts of the present case before coming to a conclusion whether Rule 13 of Rules of 2016 would be attracted or not. The Rules of 2016 do not define ‘criticism’, hence, reference would be required to the meaning and understanding of the word. As per the Oxford dictionary, criticism is an expression of what one

**CWP-6042-2020****-15-**

thinks is bad about somebody. Hence, an act of judging the demerits and faults of something or someone is broadly called as ‘criticism’. There thus has to be an actual act of review of an act and expression of such review. A similar meaning and explanation is also incorporated in the Cambridge dictionary. Hence, an attributable expression of opinion pointing at faults or demerits must exist against an employee before he can be alleged to have indulged in criticism.

18. The second aspect that needs to be expressed is the meaning, scope and extent of ‘Government’ so as to understand as to whether ‘Government’ means the ‘Chief Minister’ or the Office of “Chief Minister’ is distinct from the expression ‘Government’ used in the Rules of 2016. It is only thereafter that it can be analysed as to whether the Facebook post shared by the petitioner was an act of criticism of the Government or not.
19. The expression “Government” has not been left open-ended under the scheme of the Haryana Civil Services (Government Employees’ Conduct) Rules, 2016 but stands specifically defined in Rule 3(a) which stipulates that, unless the context otherwise requires, the term “Government” shall mean the Government of the State of Haryana. Thus, when Rule 13 of the Rules of 2016 prohibits criticism of the “Government”, the prohibition is to be read as applicable to ‘criticism of the State Government’, its functioning and its policies.
20. The respondents’ contention is that the alleged derogatory remarks were directed towards the Hon’ble Chief Minister of Haryana, who



by virtue of his constitutional office embodies the State Government. Consequently, any disparaging remark aimed at the Chief Minister, when made in the context of his office, is in effect a criticism of the Government as defined under Rule 3(a). To that extent, the act of the petitioner would not be insulated as a mere expression of personal opinion but would fall within the ambit of misconduct under the Conduct Rules, the office of the Chief Minister being inseparably linked to the identity of the Government itself.

21. The noticeable aspects that remain undisputed are:

- i. That the petitioner is alleged to have merely shared an uploaded document, which was in the nature of a newspaper report, already available in the public domain. The act of sharing was not accompanied by any remark, commentary, or annotation attributable to the petitioner. The petitioner's Facebook page served merely as a conduit through which the said report was disseminated further. In such circumstances, to impute to the petitioner an intention to criticise the Government would be stretching the meaning of "criticism" beyond its permissible limits under the Conduct Rules.
- ii. The petitioner neither generated the content nor offered any opinion or utterance of his own. Since the essential element of 'misconduct' under Rule 13 requires an active act of criticism or expression of disapproval against the Government by the Government servant, a mere passive



sharing of content created by a third party, without any independent endorsement, alteration, or comment, does not satisfy the requirement of “indulging” in criticism. The Rules cannot be interpreted to penalise a mere circulation of public speech by the person, which is neither deemed nor disowned.

iii. That the content related to a public statement by the Chief Minister, who is not synonymous with the “Government.” The definition of “Government” under Rule 3(a) of the Rules of 2016 should be read in its plain sense as denoting the Government of the State of Haryana, and the same is not equated to every utterance or statement made by an individual functionary, however high his office may be. The Hon’ble Chief Minister, while occupying a constitutional position, is not the Government per se, and a sharing of his statements would not, by itself amount to criticism of the Government

iv. The respondent(s)-State did not dispute that the Facebook page and the impugned content, being in the form of a newspaper clipping bearing the same heading, were neither generated nor uploaded by the petitioner. It is further not disputed that the petitioner did not append any comment, opinion, or remark of his own to the said newspaper report. The State, thus, acknowledges that the petitioner’s role was



limited to the sharing of a publicly available document and that there was no expression attributable to him that could amount to a personal criticism of the Government.

22. The synonymous use of the expression “Government” as being interchangeable with the “Chief Minister” may, at times, be a matter of common parlance or public understanding, but such a conflation cannot be countenanced in the realm of law. Legal action must necessarily rest upon a precise and correct appreciation of the distinction between the juristic entity of the “Government” and the individual person occupying a constitutional office. The Chief Minister, though the head of the Council of Ministers and the visible face of the executive in a parliamentary system, does not, in his individual capacity, embody the entirety of the Government. The Government, as defined under Rule 3(a) of the Rules of 2016, refers to the institutional authority of the State of Haryana and not to the persona of any one functionary, however high. It is a well-settled principle of constitutional interpretation that no individual, merely by virtue of holding an office under the Government, can be equated with the Government itself. To hold otherwise would collapse the constitutional demarcation between the office and the institution, thereby attributing to a single office-bearer the character of the State, which is neither supported by the text of the Rules nor by established principles of public law.

23. I am compelled to clarify, as a matter of constitutional doctrine, that

**CWP-6042-2020****-19-**

the Chief Minister, though occupying a position of primacy in the political and administrative framework of the State, is not in law synonymous with the “Government of the State.” This distinction, far from being a matter of mere semantics, flows directly from the text and scheme of the Constitution of India. Article 154 vests the executive power of the State in the Governor, to be exercised by him either directly or through officers subordinate to him. Article 162 delimits the extent of such power, and Article 166 mandates that every executive action of the Government shall be expressed to be taken in the name of the Governor. The Chief Minister, under Article 164, is appointed by the Governor and functions as the head of the Council of Ministers which is collectively responsible to the Legislative Assembly. The very doctrine of collective responsibility enshrined in Article 164(2) negates any attribution of the entire edifice of “Government” to a single individual, however elevated his office may be.

24. Article 300 of the Constitution decisively reinforces the juristic separation between the “Government” as an institutional entity and any individual functionary, including the Chief Minister. Article 300(1) stipulates, in substance, that legal proceedings by or against the State must be instituted in the name of the State and not in the name of an office-bearer. Article 300(2) preserves the pre-Constitution liabilities of the corresponding Province, again fastening them upon the State as a continuing juristic person. When read



conjointly with Articles 154 and 162 (vesting the executive power of the State in the Governor to be exercised through officers subordinate to him) and Article 166 (requiring executive action to be expressed in the name of the Governor), the constitutional architecture makes plain that the “Government of the State” is an institutional, continuing entity distinct from the transient personalities who occupy constitutional offices. The Chief Minister, though the head of the Council of Ministers and first among equals, is not, in law, the State or the Government; he is a public functionary through whom a portion of the State’s executive power is coordinated and advised, but the legal identity for rights, liabilities, and proceedings remains the State itself.

25. In this context, it is also necessary to notice that Section 3(60)(c) of the General Clauses Act, 1897 provides that the expression “State Government” shall mean “the Governor” in a State having a Governor. This statutory definition, read with the constitutional scheme, makes it abundantly clear that the “State Government” is not synonymous with the Chief Minister or even the Council of Ministers, but refers, in law, to the Governor as the constitutional head of the State. The Governor embodies the juristic personality of the State for purposes of statutory interpretation and legislative construction. Although, in actual practice, the Governor acts on the aid and advice of the Council of Ministers under Article 163, the constitutional identity of the State Government remains vested in the



Governor. The Chief Minister and the Council of Ministers, though integral to the working of the constitutional machinery, are functionaries who aid and advise; they are not, per se, the Government.

26. This distinction carries concrete consequences. First, causes of action arising from official acts or omissions lie against the State and not against the Chief Minister personally; conversely, acts in a purely personal capacity may attract individual liability but do not translate into State action. Secondly, writs and civil proceedings concerning governmental action are framed against the State and its authorities in their official designations, consistent with Order XXVII of the Code of Civil Procedure, 1908, and Article 166 practice, not against political office-holders eo nomine i.e. by or under that name. Thirdly, in the domain of service jurisprudence and conduct rules, the expression “criticism of the Government” refers to the institutional executive of the State of Haryana, as defined in the relevant conduct rules, and not to every statement, reportage, or reproduction concerning the Chief Minister in his political or personal capacity.
27. To conflate the individual with the institution would not only contradict text and design of Article 300 but would also unsettle the settled principles of public law which recognise the State as a continuing juristic entity while office-holders remain transient functionaries.
28. The same being the considered position of fact and law, I am of the



firm view that the order terminating the services of the petitioner on the allegation of misconduct, namely, for having criticised the Government on social media, cannot be sustained and thus deserves to be set aside. The foundation of the impugned order rests upon the assumption that the petitioner actively indulged in criticism of the Government. However, the material on record reveals that there is neither any element of criticism traceable to the petitioner, nor is there any specific comment, opinion, or utterance which can be attributed to him. The petitioner has not generated any content of his own; nor is there any allegation that the petitioner fabricated, forged, or manipulated the material in question with a view to incite disaffection or criticism against the Government. It is equally significant to note that the respondent(s)-State, at no stage, has disputed or denied the authenticity of the newspaper report or its contents. The said report has been accepted as a correct and faithful reporting of a public speech delivered by the Chief Minister. If the material in circulation merely reflected what was already in the public domain by virtue of the press reportage, then the act of sharing the same, without any additional comment, modification, or independent expression, cannot, in law, be elevated to the level of "criticism" as envisaged under Rule 13 of the 2016 Rules.

29. The institutional identity of the "Government", under the Conduct Rules, is distinct and separate from the individual holding the office of the Chief Minister. The Chief Minister, though functioning as



primus inter pares i.e. a first amongst equals, within the Council of Ministers, is nonetheless a constitutional persona but cannot be equated with the juristic concept of the “Government of the State of Haryana” as defined in Rule 3(a) of the 2016 Rules. Consequently, any post, reference, or reportage concerning the Chief Minister in his individual, personal, or even political capacity would not, in the absence of express words or conduct directly imputing to the Government, be construed as criticism of the Government. To hold otherwise would amount to an impermissible conflating of the individual with the institution, a construction which runs contrary to settled principles of statutory interpretation. The jurisprudence on service law makes it clear that misconduct must be established on the touchstone of specific acts attributable to the employee. Vicarious liability or liability by mere association has no place in disciplinary jurisprudence. In the present case, the only act attributed to the petitioner is that the report appeared on his Facebook page and was further shared within his circle of friends. Such passive presence of information, already in the public domain, cannot by itself be construed as an act of overt criticism of the Government.

30. At best, the situation may reflect a perception on the part of the functionaries in the Government that the circulation of such material amounts to criticism. The opinion by the recipient of the information is a reflection of his own understanding and bias. The distinction between "criticism in fact" and "criticism by perception" is crucial.



The law demands objective proof of the former, and not the subjective impression of the latter. To hold otherwise would result in punishing individuals for actions not consciously or volitionally committed, thereby striking at the very root of the principles of natural justice and proportionality.

31. In the present case, therefore, when the impugned action is premised on the petitioner merely sharing a newspaper report faithfully reporting a public speech of the Chief Minister, the attribution of such act as “criticism of the Government” reflects precisely such impermissible conflation. What, in truth, is no more than the dissemination of an existing report of a public functionary’s speech has been treated as misconduct against the Government itself. This approach collapses persona into polity and imposes liability without any foundation in law. Such disciplinary action, being rooted in a misapprehension of the constitutional distinction between the State and its functionaries, cannot be sustained and deserves to be set aside.
32. Consequently, I am of the opinion that the proceedings initiated against the petitioner, merely on the basis of a newspaper report having appeared on his Facebook page and allegedly being shared with his friends, cannot be equated with “criticism of the Government.” The impugned order rests upon a misinterpretation of the Conduct Rules as well as the terms of the contract of employment. Since the fulcrum of the disciplinary action is devoid of any lawful justification, the present writ petition is allowed and the impugned

**CWP-6042-2020****-25-**

order dated 18.02.2020 passed by respondent No.6 is hereby quashed and set aside. The petitioner shall be reinstated in service forthwith, with all consequential benefits flowing from such reinstatement.

33. All pending miscellaneous applications, if any, also stands disposed of.

(VINOD S. BHARDWAJ)
JUDGE

08.08.2025*Rahul Joshi*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No