



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

CM-16034-CWP-2025 in/and
CWP-7916-2023

DECIDED ON:03.12.2025

NARENDER KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Thakan, Advocate
for the petitioner(s)

Mr. Deepak Balyan, Addl. AG. Haryana

SANDEEP MOUDGIL, JCM-16034-CWP-2025

Prayer in this application is for fixing the actual date of hearing in
the main petition.

For the reasons mentioned in the application as well as
submissions made by learned counsel for the petitioner, the same is allowed.

Main case is taken on board.

CWP-7916-2023

Prayer

1. The petitioner has approached this Court under Articles 226/227 of the Constitution of India seeking a writ for setting aside the impugned order dated 18.08.2021 (Annexure P-11) passed by respondents and further directing to respondents to grant the extension to petitioner as district child protection officers due to some reasons along with all consequential beliefs and pay along with interest @ 12% p.a.

Brief Facts

2. The petitioner applied for the post of District Child Protection Officer (in short as “DCPO”) pursuant to an advertisement dated 15.01.2016 and, after due selection process, was appointed and joined. His service record including appraisals relating to work, conduct, and supervisory ability was consistently rated excellent. On 23.07.2020, he was transferred from Rohtak to Bhiwani (Annexure P-3), where he joined without any adverse remark.
3. A complaint relating to alleged immoral activities at Bal Sewa Ashram, Bhiwani was received, and an inquiry was conducted by order of the District & Sessions Judge. No wrongdoing was attributed to the petitioner. A parallel FIR No. 33 dated 23.05.2021 under the POCSO Act and Section 354A IPC was registered against another employee, and the petitioner was involved in that case but later placed in Column No. 2. Despite the absence of any charge or allegation against him, the petitioner was informed on 20.07.2021 (Annexure P-10) that his extension as DCPO had not been approved, though similarly situated employees were granted extension.
4. On 18.08.2021, respondent No. 3 issued the impugned relieving order (Annexure P-11) without issuing any show cause notice, conducting any inquiry, or affording the petitioner an opportunity of hearing. The petitioner filed several representations (Annexure P-12 to P-18) asserting his clean record and non-involvement in the case, but no decision was taken. The main accused in the criminal case has since been acquitted on 15.02.2023 (Annexure P-20).
5. Aggrieved by the same, the petitioner has approached this Court in way of this civil writ petition.

Contentions
On behalf of the petitioner

6. Learned counsel for the petitioner submits that the inquiry into alleged immoral activities at Bal Sewa Ashram, Bhiwani did not reveal any role of the petitioner, and though an FIR was registered against another employee, the petitioner was placed in Column No. 2, signifying no involvement on his part.

7. Despite this, the petitioner was denied extension and was relieved from service *vide* order dated 18.08.2021 without issuance of any show cause notice, charge sheet, or opportunity of hearing. The impugned order of relieving is non-speaking thereby violating the principles of natural justice. Moreover, even after the acquittal of the main accused, the respondents failed to reinstate the petitioner.

On behalf of the respondents

8. Learned State Counsel submits that the petitioner conceals material facts and has no right to seek extension of service, as he was only a contractual employee under the ICPS scheme, with his last extension valid only up to 31.03.2021. As per the terms of the appointment letter, his services were liable to be discontinued at any time if his conduct was found unsatisfactory.

9. It is urged that a serious incident of sexual abuse of a minor took place in the DCPU, Bhiwani, and inquiries by the Haryana State Commission for Protection of Child Rights, National Commission for Protection of Child Rights, and the Deputy Commissioner, Bhiwani revealed that the petitioner's conduct was negligent and he misused his official position. He also attempted to influence the minor victim's statement and was named as a suspect during investigation. Though later acquitted, such acquittal was based on the victim

turning hostile and it does not absolve him in the eyes of the department as departmental findings operate on a lower standard of proof.

10. Given the sensitive nature of the post in question, the respondents lost confidence in the petitioner and rightly decided not to extend his contract. The order relieving him from duty on 18.08.2021 was passed strictly in accordance with contractual conditions and inquiry findings. Accordingly, the impugned action is legal and justified, and the writ petition deserves to be dismissed.

Analysis

11. Having heard learned counsel for the parties and upon perusal of the record, this Court finds that the impugned relieving order dated 18.08.2021 cannot withstand judicial scrutiny. The legal question posed before this court for determination is that,

Whether the acquittal of a government servant in a criminal prosecution, occasioned by the complainant-witness turning hostile, constitutes an honourable acquittal in the eyes of service law, thereby barring the respondent-department from initiating or sustaining any adverse action, including termination against the employee on the same set of allegations?

Consequence of the Acquittal

12. The interface between criminal adjudication and service jurisprudence has been the subject of consistent judicial exposition. In service law the meaning and scope of “honourable acquittal” may be understood as an acquittal where the criminal court, upon evaluation of evidence, finds that the prosecution has failed to establish the allegations, and the accused is exonerated of blame but it is not confined to acquittals after full trial on merits alone, but extends to cases where the very substratum of the prosecution

collapses. Reliance may be drawn from the case of the Apex court in “**Deputy Inspector General of Police v. S. Samuthiram 2013(1) SCC 598**” wherein the court discussed the meaning of honourable acquittal and observed that:

“21. The meaning of the expression 'honourable acquittal' came up for consideration before this Court in Management of Reserve Bank of India, New Delhi v. Bhopal Singh Panchal, 1994(1) S.C.T. 505 : (1994)1 SCC 541. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions 'honourable acquittal', 'acquitted of blame', 'fully exonerated' are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression 'honourably acquitted'. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted”

13. An acquittal occasioned by witnesses turning hostile does not by itself dilute the character of acquittal. What is decisive is why the witnesses turned hostile and what finding the criminal court ultimately records.

14. In the instant case the acquittal of a petitioner in a criminal prosecution was occasioned by the complainant /prosecutrix turning hostile which cannot be treated as a mere acquittal on benefit of doubt as when the author of the allegation herself withdraws support to the prosecution case, the foundation of the accusation collapses, leaving no factual basis to sustain the charge. Such an acquittal amounts to a finding that the allegation itself was unworthy of acceptance. The Supreme Court has consistently held that the nature of acquittal must be determined by the reason for failure of prosecution and not by the terminology employed by the criminal court. Where the prosecution fails because its star witness disowns the allegation, the exoneration is complete and honourable in the eyes of service law. Support

may be drawn from “*Joginder Singh v. Union Territory of Chandigarh 2015*

(1) SCT 87” wherein it was observed as under,

“16. However, adverting to the criminal proceeding initiated against the appellant, we would first like to point out that the complainant did not support the case of the prosecution as he failed to identify the assailants and further admitted that the contents of the Section 161 of Cr.P.C. statement were not disclosed to him and his signatures were obtained on a blank sheet of paper by the Investigation Officer. Further, Sajjan Singh, who was an eye-witness of the case, who was also injured, had failed to identify the assailants. Both the witnesses were declared hostile on the request of the prosecution. The learned Additional Sessions Judge, Bhiwani held that the prosecution case has not been able to prove in any way the allegations against the appellant. Thus, the learned Judge held that the prosecution had miserably failed to prove the charges leveled against the appellant in the criminal proceedings. Therefore, we are in agreement with the findings and judgment of the learned Additional Sessions Judge and are of the opinion that the acquittal of the accused from the criminal case was an honourable acquittal.”

15. This court is sanguine of the fact that in a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It is settled law that the strict burden of proof required to establish guilt in a criminal court is not required in a disciplinary proceedings and preponderance of probabilities is sufficient.

16. Therefore, where complainant-witness turn hostile and the court finds that the prosecution has failed to prove guilt, the acquittal must be treated as one of substantive exoneration, not a mere technical escape. Further, an acquittal of the petitioner being an "honourable" acquittal in every sense and purpose. Therefore, the appellant should not be deprived of extension of contract of service, in the public employment, by declaring him as unsuitable to the post even though he was honourably acquitted in the criminal case registered against him.

17. Moreover, the retracting of the statement against the petitioner by the complainant results in the collapsing of the prosecution in its entirety and such a *volte-face* inevitably raises a serious doubt about the genesis of the case and points towards the possibility of false implication of the petitioner–employee. To nonetheless compel the petitioner to face trial would be to substitute proof with suspicion. The process of law cannot be permitted to degenerate into a punitive ritual divorced from evidentiary truth.

18. From the material placed on record, it can be made out that the petitioner was a suspect in a POCSO case wherein he was never charged, as stated by the State themselves and he was put in column no. 2, subsequently leading to his acquittal on account of the witness complainant turning hostile and retracting her statement. The petitioner was still faced with civil punishment of non extension of his contract and finally his relieving order. These civil consequences, as per the respondent/state, were based on the fact that the acquittal was based on benefit of doubt and that he had allegedly been involved in manipulation of the minor victim-witness into retracting from her statement culminating into the acquittal. However, the respondent's action of acting on the basis of conjectures and surmises and visiting the petitioner with penal consequences is arbitrary and unsustainable in law.

Duty of State

19. Public employers are bound by Article 14 to act fairly and reasonably. Once a competent criminal court has examined the allegations and found them unproved, the State cannot keep the “cloud of suspicion” alive indefinitely. Even administrative decisions affecting contractual employees of the State must conform to constitutional fairness. Sustaining adverse action on allegations that have judicially failed amounts to arbitrariness. To permit the

department to rely on the same allegations, after acquittal, without independent material or inquiry, would amount to punishing the employee despite exoneration, which is impermissible in service law.

20. The decisive test is whether the departmental action is founded on the same allegations, same incident, and same evidentiary material as the criminal prosecution. Where the foundation is identical, the doctrine of sameness applies. In “*G.M. Tank v. State of Gujarat, (2006) 5 SCC 446*” the Supreme Court held that where the criminal court acquits the employee and the charges in both proceedings are based on the same facts and evidence, it would be unjust and oppressive to sustain departmental punishment. The Court expressly noted that even where acquittal results from failure of prosecution evidence, the department cannot ignore the judicial finding and proceed mechanically, while observing that,

“It was submitted that the departmental proceedings and the criminal case are based on identical and similar (verbatim) set of facts and evidence. The appellant has been honourably acquitted by the competent Court on the same set of facts, evidence and witness and, therefore, the dismissal order based on same set of facts and evidence on the departmental side is liable to be set aside in the interest of justice.”

21. This principle applies with greater force where the department has not conducted an independent inquiry and relies substantially on the criminal allegations themselves. Thus, an acquittal following hostile testimony does not automatically imply suspicion rather, it reflects that the prosecution story was not worthy of acceptance.

22. It is an admitted position that no show-cause notice, no charge-sheet, and no opportunity of hearing was ever afforded to the petitioner prior to discontinuing his engagement. The settled law is that even a contractual

employee is entitled to fairness, transparency, and adherence to the principles of natural justice when the action taken carries civil consequences.

23. In ***Pramod Kumar Sharma v. State of Haryana***, 2017 (1) SCT 79, this Court held that,

“The legal position is fairly well settled that an order of termination of a temporary employee or probationer or even of tenure employee, simpliciter without casting any stigma may not be interfered with by court. But the court is not debarred from looking to the attendant circumstances, namely, the circumstances prior to the issuance of order of termination to find out whether the alleged inefficiency really was the motive for the order of termination or formed the foundation for the same order. If the court comes to a conclusion that the order was, in fact, the motive, then obviously the order would not be interfered with, but if the court comes to a conclusion that the so called inefficiency was the real foundation for passing of order of termination, then obviously such an order would be held to be penal in nature and must be interfered with since the appropriate procedure has not been followed.”

Thus, the termination or non-extension of a contractual engagement of a temporary employee, when founded on allegations, cannot be sustained without following minimum procedural safeguards of providing him an opportunity of fair hearing.

24. Similarly, in the writ petition ***CWP-29371-2018*** titled as “***Smt. Asha Grover v. State of Haryana***” which was decided on 30.09.2019, this Court set aside the non-extension of a DCPO where no inquiry was duly held and no opportunity was provided, emphasizing that adverse action based on alleged misconduct must be preceded by due process. Thus, where an administrative action visits a person with penal or civil consequences, the requirement of natural justice is implicit unless expressly excluded and it is pertinent to note that no such exclusion exists here.

25. In the present case, although the respondents rely heavily on inquiry reports and allegations relating to manipulation in a child protection matter, the petitioner was neither confronted with such material nor granted an opportunity to defend himself before the adverse action of non-extension of

contract and relieving orders were passed. Furthermore, after proper investigation the petitioner was placed in Column No. 2 of the FIR, and no charge was ever framed against him. His acquittal, even if on benefit of doubt, erases the presumption of his involvement for the purpose of depriving him of livelihood.

26. This court cannot lose sight of the well-settled principle of law that a person cannot be deprived of his livelihood without being afforded a fair, meaningful, and reasonable opportunity to establish his innocence in duly constituted disciplinary proceedings. Livelihood is not a mere privilege conferred at the discretion of the State but an integral facet of the right to live with dignity. To extinguish this right without adherence to the elementary principles of natural justice would be to visit irreparable civil consequences upon an individual without due process of law.

27. This view of mine is further strengthened by the ratio laid by Supreme court in “Basudeo Tiwary v. Sido Kanhu University, (1998) 8 SCC 194” wherein it was observed that,

“8. The law is settled that non-arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. It has come to be established, as a further corollary, that the audi alteram partem facet of natural justice is also a requirement of Article 14, for, natural justice is the antithesis of arbitrariness. In the sphere of public employment, it is well settled that any action taken by the employer against an employee must be fair, just and reasonable which are components of fair treatment. The conferment of absolute power to terminate the services of an employee is antithesis to fair, just and reasonable treatment. This aspect was exhaustively considered by a Constitution Bench of this Court in Delhi Transport Corporation v. D.T.C. Mazdoor Congress, reported in AIR 1991 Supreme Court 101 : 1991(1) S.C.T. 675.

9. In order to impose procedural safeguards, this Court has read the requirement of natural justice in many situations when the statute is silent on this point. The approach of this Court in this regard is that omission to impose the hearing requirement in the statute under which the impugned action is being taken does not exclude hearing - it may be implied from the nature of the power - particularly when the right of a party is affected adversely.

To arrive at such a finding necessarily enquiry will have to be held and in holding such an enquiry the person whose appointment is under enquiry will have to be issued to him. If notice is not given to him then it is like playing Hamlet without the Prince of Denmark, that is, if the employee concerned whose rights are affected, is not given notice of such a proceeding and a conclusion is drawn in his absence, such a conclusion would not be just, fair or reasonable as noticed by this Court in D.T.C. Mazdoor Sabha's case”

28. Moreover, a stigmatic or punitive order cannot be camouflaged as a simple non-extension of contract. Where the real foundation of the order is alleged misconduct, the employer cannot avoid holding a proper inquiry by characterizing the action as “non-renewal of the contract”.

29. The respondents’ stand that the petitioner had no right to extension is legally untenable, for the right in question is not to *extension*, but to *fair procedure* before being visited with the petitioner in accordance with the settled tenets of law. The contention that the post is of sensitive nature cannot justify bypassing constitutional safeguards put in place for the purpose of upholding fairness and justice. The petitioner’s service record was consistently rated “excellent,” and no adverse entry existed prior to the disputed episode.

30. Furthermore, the impugned order is entirely non-speaking and bereft of reasons, thus failing the test laid down by the Apex court in “***Kranti Associates v. Masood Ahmed Khan, (2010) 9 SCC 496***” that administrative orders affecting rights must disclose reasons to enable judicial review.

Relevant extract of the same is as follows:

“51. Summarising the above discussion, this Court holds :

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya v. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

31. In light of the foregoing discussion, this Court is firmly of the considered view that once the petitioner was exonerated and the acquittal ensued solely on account of the prosecution witness having turned hostile, it unequivocally demonstrates that the petitioner was falsely implicated. It is also a matter of record that the respondent-State, in its written statement, has candidly acknowledged that no charges were ever framed against the petitioner. In such circumstances, the initiation of adverse action against the petitioner, founded merely on conjectures and unfounded assumptions that he had influenced the minor victim to retract from her statement, is manifestly arbitrary, wholly unjustified, and cannot be sustained in law.

Conclusion

32. Accordingly, the action of the respondents to terminate the services of the petitioner is in complete breach of natural justice. The relieving order dated 18.08.2021 (Annexure P-11) is hereby set-aside.

33. Once the very foundation of the order is legally unsustainable, the petitioner is entitled to reinstatement with consequential benefits. The respondent-Department is directed to reinstate the present petitioner and release all consequential benefits and arrears of pay within a period of 4 weeks from the date of receipt of certified copy of this order.

34. Therefore the present civil writ petition merits acceptance.

35. Ordered accordingly.

03.12.2025

Sham

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

:Yes/No

Whether reportable

:Yes/No