

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2236-2025

DECIDED ON: 10.04.2026

LIJA RAM

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS

....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. K.S. Dhanora, Advocate and
Ms. Kritika, Advocate for the petitioner(s)

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

Mr. Pawan Attri, Advocate for respondent no. 5

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this court has been invoked under Articles 226/227 of the constitution of India seeking quashing of the letter no. 4768-70 dated 08.11.2024 (Annexure P-11) whereby the services of the petitioner have been terminated, with a further prayer directing the respondent no. 4 to allow the petitioner to work as Safai Karamchari and to release the salary of petitioner in accordance with law.

Brief Facts

2. The petitioner was appointed as a Safai Karamchari in Village Singhpura, Tehsil Pehowa, District Kurukshetra, in the year 2008. Over time,

complaints were received from villagers alleging that the petitioner was not performing his sanitation duties properly, resulting in accumulation of garbage and blockage of drainage, thereby posing health concerns.

3 On the basis of these complaints, the competent authority issued a notice dated 02.07.2024, followed by another notice dated 13.07.2024, calling upon the petitioner to respond and improve his work. The petitioner submitted a reply to the second notice. Subsequently, the services of the petitioner were terminated vide office order dated 08.11.2024. After the termination, another individual was appointed as Safai Karamchari in the village and has been working since then.

4. Aggrieved by the termination order, the petitioner has filed the present writ petition challenging the said order and seeking reinstatement along with release of salary.

Contentions

On the behalf of petitioner

5. Learned counsel for the petitioner contends that the impugned office order dated 08.11.2024 terminating the petitioner's services is arbitrary, illegal, and violative of the principles of natural justice allegedly on account of personal grudge and under the influence of respondent No. 5, the Sarpanch. It is argued that the petitioner had been serving as a Safai Karamchari since 2008 and had rendered long and continuous service without any prior adverse record.

6. The issuance of notices dated 02.07.2024 and 13.07.2024 is stated to be a mere formality, as no proper inquiry or opportunity of personal hearing was afforded before passing the termination order. It is further submitted that the

allegations regarding non-performance of duties are vague, unsubstantiated, and not supported by any independent or official inquiry.

7. Learned counsel also contends that the termination has been effected without following due process of law and in violation of applicable service rules. The appointment of another person in place of the petitioner is stated to be arbitrary and indicative of mala fide intent.

On behalf of the Respondents

8. Per contra, learned counsel for the respondents submits that the petitioner was not performing his duties satisfactorily, which led to serious sanitation issues in the village, including accumulation of garbage and blockage of drainage, posing health risks to residents.

9. It is argued that several complaints were received from villagers, pursuant to which notices dated 02.07.2024 and 13.07.2024 were duly issued to the petitioner, affording him adequate opportunity to improve his performance and respond. Despite such opportunities, the petitioner failed to discharge his duties properly and instead submitted a reply containing allegations against the authorities.

10. It is contended that the termination order dated 08.11.2024 was passed after due consideration of the petitioner's conduct and persistent negligence, and thus does not suffer from any illegality or procedural infirmity. The respondents further submit that, following the petitioner's termination, another person has been appointed to ensure proper sanitation in the village.

Analysis

11. Upon consideration of the pleadings, documents placed on record, and the rival submissions addressed by learned counsel for the parties, this Court is of the view that the controversy in the present case lies within a narrow compass—whether the termination of the petitioner’s services satisfies the requirements of fairness, legality, and due process as mandated under law.

12. It is not in dispute that the petitioner had been working since the year 2008 and had thus put in long years of service. The respondents have justified the termination on the ground of unsatisfactory performance and complaints received from villagers, followed by issuance of notices dated 02.07.2024 and 13.07.2024. However, from the material on record, it is evident that no regular or formal departmental inquiry was conducted prior to the passing of the impugned termination order dated 08.11.2024. The notices relied upon by the respondents cannot be treated as a substitute for a full-fledged inquiry, particularly when the action taken is punitive in nature and results in serious civil consequences.

13. The law is well settled that even where an employee is alleged to have failed in discharge of duties, any action leading to termination must conform to the principles of natural justice. A Court of law cannot be oblivious to the administrative realities and ought to strike a delicate balance has been repeatedly emphasized. In ***Chairman, Board of Mining Examination v. Ramjee (1977) 2 SCC 256***, V.R. Krishna Iyer, J. speaking for the Supreme Court in his inimitable style stated thus:

"13.Natural justice is no unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt-that is the conscience of the matter."

14. Also, the Supreme Court in ***D.K. Yadav v. J.M.A. Industries Ltd.*** **1993 INSC 185** has categorically held that termination of service without affording a reasonable opportunity of hearing is violative of Articles 14 and 21 of the Constitution of India. Relevant extract of the same as under:

9. The law must therefore be now taken to be well-settled that procedure prescribed for depriving a person of livelihood must meet the challenge of Article 14, and such law would be liable to be tested on the anvil of Article 14 and the procedure prescribed by a statute or statutory rule or rules or orders effecting the civil rights or result in civil consequences would have to answer the requirement of Article 14. So it must be right, just and fair and not arbitrary, fanciful or oppressive. There can be no distinction between a quasi-judicial function and an administrative function for the purpose of principles of natural justice. The aim of both administrative inquiry as well as the quasi-judicial enquiry is to arrive at a just decision and if a rule of natural justice is calculated to secure justice or to put it negatively, to prevent miscarriage of justice, it is difficult to see why it should be applicable only to quasi-judicial enquiry and not to administrative enquiry. It must logically apply to both.

10. Therefore fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the rights of the person affected would be in conformity with the principles of natural justice. Article 21 clubs life with liberty, dignity of

person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence. When it is interpreted that the colour and content of procedure established by law must be in conformity with the minimum fairness and processual justice, it would relieve legislative callousness despising opportunity of being heard and fair opportunities of defence Article 14 has a pervasive processual potency and versatile quality, equalitarian in its soul and allergic to discriminatory dictates. Equality is the antithesis of arbitrariness. It is, thereby, conclusively held by this Court that the principles of natural justice are part of Article 14 and the procedure prescribed by law must be just, fair and reasonable.

15. All matters relating to employment includes the right to continue in service till the employee reaches superannuation or until his service is duly terminated in accordance with just, fair and reasonable procedure. They must be conformable to the rights guaranteed in Part III and IV of the Constitution. Article 21 guarantees right to life which includes right to livelihood the deprivation thereof must be in accordance with just and fair procedure prescribed by law conformable to Articles 14 and 21 so as to be just, fair and reasonable and not fanciful, oppressive or at vagary. The principle of natural justice is an integral part of the guarantee of equality assured by Article 14. Any law made or action taken by an employer must be fair, just and reasonable. The power to terminate the service of an employee/workman in accordance with just, fair and reasonable procedure is an essential inbuilt of natural justice. Article 14 strikes at arbitrary action. It is not the form of the action but the substance of the order that is to be looked into. It is open to the court to lift the veil and gauge the effect of the impugned action to find whether it is the foundation to impose punishment or is

only a motive. Fair play is to secure justice, procedural as well as substantive. The substance of the order is the soul and the affect thereof is the end result.

16. It is thus worth noticing that right to life enshrined under Article 21 of the Constitution would include right to livelihood. The order of termination of the service of an employee/workman visits with civil consequences of jeopardising not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee, fair play requires that a reasonable opportunity to put forth his case is given and domestic enquiry conducted complying with the principles of natural justice. The right to "hire and fire" was the prerogative claimed by the employer in the days of uncontrolled "laissez faire". Unjust, arbitrary, uncontrolled power of "premature" termination of services of permanent employees is not to be tolerated by the Constitution of free India.

17. Similarly, in a more recent judgement of the Apex court, in “***State of Uttar Pradesh v. Sudhir Kumar Singh 2020 INSC 603***”, it has been reiterated that any administrative action entailing civil consequences must adhere to fairness in procedure. It was held that:

*31. In the five-Judge Bench decision in **Managing Director, ECIL and Ors. v. B. Karnakumar and Ors. (1993) 4 SCC 727**, this Court, after discussing the constitutional requirement of a report being furnished under Article 311(2), held thus:*

"30. Hence the incidental questions raised above may be answered as follows:

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[v] The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the

employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice.

31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the Courts/Tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment."

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39. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The "prejudice" exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.

18. In the present case, the petitioner was neither afforded an effective nor meaningful opportunity to defend himself, nor was he subjected to any impartial or structured inquiry where evidence could be properly examined. The record shows that only two notices dated 02.07.2024 and 13.07.2024 were issued to the petitioner on the basis of certain complaints allegedly received from villagers. However, beyond issuance of these notices, no further steps were taken to initiate a regular disciplinary proceeding. The petitioner was not supplied with the material or specific complaints forming the basis of the allegations, nor was any list of witnesses or documentary evidence furnished to him. No inquiry officer was

appointed, no oral hearing was granted, and no opportunity of cross-examination of complainants or witnesses was provided.

19. Even the reply submitted by the petitioner to the second notice was not considered in a fair or reasoned manner, as the impugned termination order does not reflect any application of mind or discussion of the petitioner's defence. The termination appears to have been passed in a mechanical manner solely on the basis of unverified complaints and without testing their correctness through any objective process. Such a course of action falls short of the minimum procedural safeguards required, especially when the petitioner had been in service since 2008 and the order of termination visits him with serious civil and livelihood consequences.

20. This Court also finds that the impugned order is founded upon allegations of negligence and misconduct. Once such allegations form the basis of termination, the action assumes a punitive character, thereby necessitating compliance with due process. The respondents have not been able to demonstrate that any such procedure was followed. The absence of a reasoned decision based on a proper inquiry renders the termination legally unsustainable.

21. The contention of the respondents that another person has already been appointed in place of the petitioner cannot come to their aid. It is a settled proposition that an illegal action cannot be validated on the ground of subsequent developments. Administrative expediency cannot override the requirement of legality and fairness.

Conclusion

22. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned order dated 08.11.2024 (Annexure P-11) is vitiated on account of non-compliance with the principles of natural justice and cannot be sustained in the eyes of law. The impugned termination order is hereby quashed.

23. The respondents are directed to reinstate the petitioner in service forthwith. The petitioner shall also be entitled to all consequential benefits in accordance with law, which shall be released by the respondent within a period of 6 weeks from the date of receipt of certified copy of this order.

24. Accordingly, the writ petition is allowed.

25. Pending application(s), if any shall disposed off.

10.04.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*