

2026:PHHC:034274



116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3198-2026
DECIDED ON: 17.02.2026

SHALENDER

.....PETITIONER

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Rashika Bansal, Advocate and
Mr. Satyam Singla, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

Prayer:

1. The jurisdiction of this Court under Article 226 of the Constitution of India has been invoked seeking issuance of a writ in the nature of *Certiorari* to quash the impugned order dated 12.01.2026 (Annexure P-4) whereby, the petitioner has been suspended from service with further prayer to quash the decision of Respondent No.2 to charge sheet the petitioner under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 (for brevity 'Rules 2016').

Brief facts:

2. The Petitioner was appointed as a Multi-Purpose Health Worker (MPHW) (Male) in the Health Department, Haryana vide appointment letter bearing No. ECCD/M-/2006/5278 dated 12.10.2006 issued by the Director General of Health Services, Haryana, Panchkula. The service conditions of the

Petitioner are governed by the Haryana Health Department Multi-Purpose Health Supervisors and Multi-Purpose Health Workers Group 'C' Service Rules, 1984 as amended by the Amendment Rules, 2014, whereas disciplinary proceedings against the Petitioner are regulated by the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (for short "Rules, 2016"). After his appointment, the Petitioner was posted at various places including CHC Rajond, District Kaithal and subsequently at Community Health Centre, Julana, District Jind, Haryana. The Petitioner successfully completed his probation period and has been serving as a regular employee of the Respondent-State.

3. Since his appointment in the year 2006, the Petitioner has been performing his duties sincerely, diligently and to the satisfaction of the authorities and no major punishment has ever been imposed upon him. It is also mentioned that although the Petitioner was earlier issued a charge-sheet under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 vide memorandum dated 02.03.2019, the same was duly replied to by the Petitioner and no further action has been taken thereupon till date.

4. However, while the Petitioner was discharging his duties at Community Health Centre, Julana, District Jind, the Respondent No. 2, acting under the directions of OSD/CM, vide impugned order dated 12.01.2026 (Annexure P-4), placed the Petitioner under suspension and fixed his headquarters at Malaria Office, Yamuna Nagar, which order was communicated to the Petitioner vide endorsement bearing No. VBD/M-2/2026/208-13 dated 12.01.2026. Hence, the present writ petition.

Contentions on behalf of the petitioner:

5. Learned counsel for the petitioner contends that the impugned order dated 12.01.2026 (Annexure P-4) placing the petitioner under suspension is *ex*

facie arbitrary, mechanical and contrary to the provisions of the Rules, 2016. It is submitted that Rule 5 of the said Rules confers a discretionary power upon the competent authority to place a government employee under suspension where disciplinary proceedings are contemplated or pending, and such discretion must necessarily be exercised after due application of mind to the gravity of the alleged misconduct and the surrounding circumstances.

6. Learned counsel urges that the impugned order itself reveals that the suspension has been ordered “as per the directions of OSD/CM”, thereby demonstrating that the competent authority failed to exercise its independent discretion and merely acted upon the dictate of an authority not empowered under the statutory rules. Reliance in this regard is placed upon the judgments of the Apex Court in the cases of “*State of Orissa v. Bimal Kumar Mohanty*,” 1994(4) SCC 126; “*Commissioner of Police v. Gordhandas Bhanji*,” AIR 1952 SC 16; “*Anirudhsinhji Karansinhji Jadeja v. State of Gujarat*,” (1995) 5 SCC 302; “*State of Madhya Pradesh v. Sanjay Nagayach*” (2013) 7 SCC 25 and “*State of U.P. v. Maharaja Dharmander Prasad Singh*”(1982) 2 SCC 505, to contend that when statutory power is vested in a particular authority, the same must be exercised independently and cannot be surrendered to the dictates of another authority, failing which the action becomes ultra vires.

7. Learned counsel further submits that the impugned order suffers from patent non-application of mind inasmuch as it records that the petitioner has been charge-sheeted under Rule 7 of the Rules of 2016, whereas the endorsement issued simultaneously directs the Civil Surgeon, Jind to prepare and forward the memorandum of charges, list of allegations, witnesses and documents within fifteen days. It is averred that disciplinary proceedings commence only upon service of a charge-sheet, and in the absence thereof, the statement in the

impugned order that the petitioner has been charge-sheeted is factually and legally untenable. Learned counsel also urges that the impugned order does not disclose even the nature of the alleged misconduct or the material considered by the competent authority before directing suspension and initiation of major penalty proceedings, thereby rendering the action arbitrary and unsustainable. In support of the submission that suspension cannot be resorted to routinely or on extraneous considerations, reliance is also placed upon the decision of the Supreme Court in the case of “***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd***” (1999) 3 SCC 679.

8. Thus, it is contended that the impugned order is the result of stepping down of statutory discretion by the competent authority in favour of directions issued by OSD/CM, which is impermissible in law, and consequently the suspension of the petitioner and the consequential direction to initiate disciplinary proceedings are liable to be quashed as being arbitrary and illegal.

Analysis:

9. Upon hearing learned counsel for the petitioner and on a perusal of the material placed on record, this Court is of the considered view that the challenge to the order of suspension does not merit interference in exercise of jurisdiction under Article 226 of the Constitution of India.

10. It is well settled that an order of suspension is not a punishment but only an interim measure intended to facilitate a fair and unhindered inquiry where disciplinary proceedings are contemplated or pending. The Hon’ble Supreme Court in “***Union of India v. Ashok Kumar Aggarwal***” (2013) 16 SCC 147 while observing that “suspension is not a punishment in itself but is only an interim measure and the court should not ordinarily interfere with an order of suspension

unless it is shown to be *mala fide* or passed without jurisdiction. Relevant extract of the judgment reads thus:-

“14. The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases, particularly in State of M.P. v. Sardul Singh, (1970) 1 SCC 108; P.V. Srinivasa Sastry v. Comptroller & Auditor General of India, (1993) 1 SCC 419; Director General, ESI & Anr. v. T. Abdul Razak, AIR 1996 SC 2292; Kusheshwar Dubey v. M/s Bharat Cooking Coal Ltd. & Ors., AIR 1988 SC 2118; Delhi Cloth General Mills vs. Kushan Bhan, AIR 1960 SC 806; U.P. Rajya Krishi Utpadan Mandi Parishad & Ors. v. Sanjeev Rajan, (1993) Supp. (3) SCC 483; State of Rajasthan v. B.K. Meena & Ors., (1996) 6 SCC 417; Secretary to Govt., Prohibition and Excise Department v. L. Srinivasan, (1996) 3 SCC 157; and Allahabad Bank & Anr. v. Deepak Kumar Bhola, (1997) 4 SCC 1, wherein it has been observed that even if a criminal trial or enquiry takes a long time, it is ordinarily not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking the suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay for no fault of the employee concerned. Where the charges are baseless, mala fide or vindictive and are framed only to keep the delinquent employee out of job, a case for judicial review is made out. But in a case where no conclusion can be arrived at without examining the entire record in question and in order that the disciplinary proceedings may continue unhindered the court may not interfere. In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in conclusion of enquiry or trial can not be a ground for quashing the suspension order, if the charges are grave in nature. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct in question.

Suspension is a device to keep the delinquent out of the mischief range. The purpose is to complete the proceedings unhindered. Suspension is an interim measure in aid of disciplinary proceedings so that the delinquent may not gain custody or control of papers or take any advantage of his position. More so, at this stage, it is not desirable that the court may find out as which version is true when there are claims and counter claims on factual issues. The court cannot act as if it an appellate forum de hors the powers of judicial review.”

11. In the present case, the impugned order has been issued by the competent authority in exercise of powers under Rule 5 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, and no material has been placed on record to demonstrate that the same suffers from mala fides or lack of jurisdiction.

12. This Court also finds that Rule 5 (1) (a) of the Rules of 2016, as reproduced under, specifically empowers the competent authority to place a government servant under suspension where disciplinary proceedings are contemplated or pending.

“5. Suspension and withholding of emoluments.—

(1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor, by general or special order, may place a Government employee under suspension where—

(a) a disciplinary proceeding against him is contemplated or is pending, or

(b) a case against him in respect of any criminal offence is under investigation, inquiry or trial: or

(c) in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State:”

12. The mere fact that the memorandum of charges was directed to be prepared subsequently does not render the order invalid, as the power of suspension can be exercised even at the stage when disciplinary proceedings are

only contemplated. In “*Allahabad Bank v. Deepak Kumar Bhola*,” 1997 INSC 266 the Apex Court observed that where serious allegations are under consideration, the employer is justified in placing the employee under suspension so that the inquiry may proceed in a fair and unobstructed manner.

13. Furthermore, it is a settled principle that the scope of judicial review against an order of suspension is extremely limited. In the absence of any demonstrable mala fide, patent illegality, or violation of statutory provisions, the Courts shall refrain to interfere with the impugned order in exercise of powers under Article 226 of the Constitution of India. Reliance may be placed on “*State of Orissa Vs. Bimal Kumar Mohanty*”, (1994) 4 SCC 126. Relevant extract of the judgment reads as under:-

“13. It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and 5 1993 Supp (3) SCC 483: 1994 SCC (L&S) 67: (1993) 25 ATC commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending inquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the inquiry or investigation or to win over

the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or inquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending inquiry or contemplated inquiry or investigation. It would be another thing if the action is actuated by mala fides, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental inquiry or trial of a criminal charge.

14. On the facts in this case, we are of the considered view that since serious allegations of misconduct have been alleged against the respondent, the Tribunal was quite unjustified in interfering with the orders of suspension of the respondent pending inquiry. The Tribunal appears to have proceeded in haste in passing the impugned orders even before the ink is dried on the orders passed by the appointing authority. The contention of the respondent, therefore, that the discretion exercised by the Tribunal should not be interfered with and this Court would be loath to interfere with the exercise of such discretionary power cannot be given acceptance.”

14. The principal contention raised by learned counsel for the petitioner is that the impugned order has been passed at the instance of the OSD/CM and thus reflects absence of independent application of mind by the competent authority. However, a bare reading of the order does not lead to the inevitable conclusion that the competent authority has abdicated its statutory discretion. At best, the reference to directions of OSD/CM can be construed as administrative communication or input received at the departmental level, but the formal order of suspension has admittedly been issued by the competent authority under the applicable rules. The judgments relied upon by the petitioner, including *Commissioner of Police v. Gordhandas Bhanji (supra)*, *Anirudhsinhji Karansinhji Jadeja v. State of Gujarat (supra)* and *State of U.P. v. Maharaja Dharmander Prasad Singh (supra)*, lay down the settled proposition that statutory discretion cannot be exercised at the dictation of another authority. However, the

applicability of those decisions would arise only where the record clearly establishes that the authority competent to act had completely surrendered its discretion. In the present case, no such material has been placed on record to demonstrate that the competent authority mechanically acted without considering the matter. Mere reference to directions from a higher office does not, by itself, establish abdication of statutory power.

15. Similarly, the reliance placed by the petitioner upon *State of Orissa v. Bimal Kumar Mohanty (supra)* is misplaced. In the said judgment the Apex Court observed that suspension should not be resorted to as a matter of routine and must be based on consideration of relevant factors. At the same time, the Court also recognized that suspension is a legitimate administrative step where disciplinary proceedings are contemplated. In the present case, the impugned order itself indicates that major penalty proceedings under Rule 7 are contemplated and steps have been initiated to frame the charge-sheet. The fact that the memorandum of charges was directed to be prepared subsequently does not invalidate the suspension, as Rule 5 (1) (a) expressly permits suspension even when disciplinary proceedings are merely contemplated.

16. Keeping in mind the settled positions courts should not ordinarily interfere with orders of suspension unless they are shown to be mala fide or wholly arbitrary. Therefore, suspension pending inquiry is primarily a matter of administrative discretion and judicial interference is not warranted merely because another view may be possible. The petitioner has not been able to demonstrate any mala fides, lack of jurisdiction or violation of statutory provisions so as to warrant interference by this Court.

17. Insofar as the reliance placed upon *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. (1993) 3 SCC 679* is concerned, the said judgment dealt with the

effect of prolonged suspension and simultaneous criminal and departmental proceedings. The ratio of the said decision has no direct application to the facts of the present case where the suspension has been ordered at the threshold of contemplated disciplinary proceedings and cannot be said to be punitive or excessive at this stage.

Conclusion

18. In view of the aforesaid discussion, this Court finds no ground to hold that the impugned order dated 12.01.2026 (Annexure P-4) suffers from arbitrariness, mala fides or lack of jurisdiction. The suspension of the petitioner is merely an interim administrative measure pending initiation of disciplinary proceedings wherein the petitioner will have adequate opportunity to defend himself during such proceedings in accordance with law.

19. Consequently, the impugned order is upheld, the writ petition, being devoid of merit stands dismissed. Pending application, if any, stand disposed of.

17.02.2026
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(SANDEEP MOUDGIL)
JUDGE

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