

2026.PHHC.019729



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

**CWP-12783-2023
DECIDED ON: 06.02.2026**

TAMANNA

...PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Sahu, Advocate
for the petitioner(s)

Mr. Deepak Balyan, Addl. A.G., Haryana

SANDEEP MOUDGIL, J

Prayer

1. This Civil Writ Petition under Articles 226/227 of the Constitution of India has been filed seeking issuance of a writ of certiorari for quashing the impugned order dated 17.05.2023 (Annexure P-13) passed by respondent No.4 – Civil Surgeon, Fatehabad, whereby the services of the petitioner have been terminated without issuance of any charge-sheet or holding a departmental enquiry.

Brief Facts

2. The petitioner was appointed on contract basis as Multipurpose Social Worker (Female) [MPSW (F)] under the Urban Health Mission and joined service on 31.10.2013 (Annexure P-1) at Polyclinic, HUDA Sector-3, Fatehabad. Her appointment was initially valid up to 31.03.2014 and was thereafter extended from time to time through successive orders issued by the respondent department, the last extension being up to 31.03.2024. During this period, the petitioner continued to work on the said post under contractual terms.

3. On 03.05.2023, while discharging her official duties at the Polyclinic, the petitioner administered routine vaccination to several children, including an infant named Kabir, aged about two months. Subsequent to the vaccination, the condition of the child deteriorated, and the petitioner referred the child to the Civil Hospital, Fatehabad, where medical treatment was provided. The child, however, expired during treatment at the Civil Hospital and the matter was reported to the concerned medical authorities.

4. Following the said incident, the Civil Surgeon, Fatehabad, issued an order dated 17.05.2023 (Annexure P-13) terminating the services of the petitioner during the subsistence of her contractual tenure. The termination order cited negligence in discharge of duties, non-adherence to Standard Operating Procedures during vaccination, and unsatisfactory performance as reasons for cancellation of the contract, in accordance with the terms of appointment.

5. Aggrieved by the termination order, the petitioner filed the present writ petition challenging the legality and validity of the order dated 17.05.2023 (Annexure P-13) on the ground that it was passed without issuance of notice, without affording an opportunity of hearing, and without conducting any departmental enquiry, despite containing allegations of negligence. The petitioner has sought setting aside of the impugned order and consequential reliefs.

Contentions

On behalf of the petitioner

6. Learned counsel for the petitioner submits that the impugned termination order dated 17.05.2023 (Annexure P-13) is illegal, arbitrary and unsustainable in the eyes of law as it amounts to a stigmatic termination of the petitioner during the subsistence of a valid contractual tenure without adherence to the principles of natural justice. It is contended that though the petitioner was a contractual employee, her services could not have been dispensed with on allegations of negligence or misconduct without issuance of a show cause notice and without holding a departmental enquiry.

7. It is further argued that the termination order specifically attributes negligence in discharge of duties and alleged violation of Standard Operating Procedures during vaccination, which casts a stigma on the petitioner's service record. Learned counsel submits that once the foundation of termination is an allegation of misconduct or negligence, the employer is bound to follow due process of law, irrespective of the contractual nature of employment.

8. Learned counsel submits that the petitioner had been continuously granted extensions from 2013 till 2024, which reflects satisfactory performance throughout her tenure. No adverse action was taken against the petitioner prior to the incident dated 03.05.2023, and no enquiry has been conducted to ascertain the actual cause of death of the child, despite post-mortem and medical investigation being essential in cases of Adverse Events Following Immunization (AEFI).

9. It is contended that the petitioner strictly acted in accordance with the guidelines issued by the Government of India and the State Health Authorities relating to AEFI, by immediately informing the Medical Officer and referring the child to the Civil Hospital. Therefore, the allegation of negligence is premature and unsubstantiated, having been recorded without any medical or departmental finding.

10. Learned counsel submits that the respondents cannot take shelter under the termination clause of the contract when the order itself is founded on allegations of negligence. The power to terminate simpliciter cannot be used as a cloak to impose a punitive and stigmatic termination.

On behalf of respondent

11. Learned State counsel submits that the writ petition is misconceived and not maintainable as the petitioner was a purely contractual employee whose engagement was governed exclusively by the terms and conditions of the contract. The petitioner had no vested or statutory right to continue in service beyond the pleasure of the employer, particularly when the contract expressly permitted termination during the tenure for unsatisfactory performance or negligence.

12. It is contended that the impugned order dated 17.05.2023 (Annexure P-13) is a termination simpliciter in terms of the contract and does not amount to a punitive or stigmatic order. The order merely records the circumstances leading to cancellation of the contract and does not impose any penalty nor debars the petitioner from future employment. Therefore, the principles of natural justice or the requirement of a departmental enquiry are not attracted.

13. Learned State counsel submits that the petitioner's services were dispensed with not only on account of the incident dated 03.05.2023 but also due to her consistently poor performance, which had been brought to her notice earlier through official communications. It is argued that the petitioner failed to achieve prescribed immunization targets, and her performance was found unsatisfactory upon periodic review, which is a valid ground for termination under the contract.

14. It is further argued that the petitioner failed to adhere to the Standard Operating Procedures relating to vaccination and Adverse Events Following Immunization, and such lapse directly impacts public health and safety. In matters concerning health services, the employer is entitled to take prompt administrative action without awaiting the outcome of criminal or medical investigations, particularly when continuance of such employee is not in public interest.

15. It is also submitted that the petitioner has been paid 30 days' remuneration in lieu of notice as per the contract, thereby fully complying with the conditions of appointment. No statutory rule or constitutional provision has been violated in passing the impugned order.

Analysis

16. The controversy in the present writ petition lies in a narrow compass, yet raises questions of considerable importance touching upon settled principles of service jurisprudence, natural justice, and the limits of contractual power of the State as an employer.

Core Issue for Determination

17. The core issue that arises before this court for determination in the present matter is:

Whether the termination of a contractual employee, founded on allegations of negligence, without any enquiry or determination of causation, and without affording an opportunity of hearing, can be sustained in law as a termination simpliciter under the contract?

Nature of the Impugned Termination

18. It is now a settled principle of law that the form of an order is not decisive, it is the substance, foundation, and attendant circumstances which determine its true character. Even in the case of contractual or ad-hoc employees, the employer cannot camouflage a punitive action as termination simpliciter merely by invoking a clause in the contract.

19. In the present case, the impugned order dated 17.05.2023 (Annexure P-13) expressly attributes negligence, non-adherence to Standard Operating Procedures, and links the termination directly to a fatal outcome following vaccination. Such averments are not neutral or administrative in nature but strike at the professional integrity and competence of the petitioner. An order which imputes fault, blame, or dereliction is ex facie stigmatic and punitive in character.

20. The law on this aspect is too well-settled to admit of any ambiguity. However, though the employer has a wider latitude while dealing with a probationer as compared to a regular employee, such discretion is not absolute and cannot be exercised arbitrarily or punitively under the cloak of a termination simpliciter. Termination orders founded on allegations of misconduct or negligence cannot be sustained without adherence to due process. The distinction between a termination founded on unsuitability and one founded on misconduct is no longer *res integra*.

21. The Supreme Court in ***Jai Singh v. Union of India 2006 (4) SCT 66*** while discussing that in what situation the allegation of misconduct will be the motive and in what cases they will be foundation has to be adjudged in the factual background of each case, while observing that,

*“ The issue has been examined in several decisions including several Constitution Bench judgments and a judgment of 7-judges. An elaborate analysis of the various decisions was made by this Court in **Radhey Shyam Gupta v. U.P. State Agro Industries Corpn. Ltd. and Anr., (1999(2) SCC 21)**. The matter was examined elaborately by 7-Judges in **Samsher Singh v. State of Punjab and Anr., (1974(2) SCC 831)**. In the said case it was noted in paragraphs 79 and 80 as follows:*

"79. The Enquiry Officer nominated by the Director of Vigilance recorded the statements of the witnesses behind the back of the appellant. The enquiry was to ascertain the truth of allegations of misconduct. Neither the report nor the statements recorded by the Enquiry Officer reached the appellant. The Enquiry Officer gave his findings on allegations of misconduct. The High Court accepted the report of the Enquiry Officer and wrote to the Government on June 25, 1969 that in the light of the report the appellant was not a suitable person to be retained in service. The order of termination was because of the recommendations in the report.

80. *The order of termination of the services of Ishwar Chand Agarwal is clearly by way of punishment in the facts and circumstances of the case. The High Court not only denied Ishwar Chand Agarwal the protection under Article 311 but also denied itself the dignified control over the subordinate judiciary. The form of the order is not decisive as to whether the order is by way of punishment. Even an innocuously worded order terminating the service may in the facts and circumstances of the case establish that an enquiry into allegations of serious and grave character of misconduct involving stigma has been made in infraction of the provision of Article 311. In such a case the simplicity of the form of the order will not give any sanctity. That is exactly what has happened in the case of Ishwar Chand Agarwal. The order of termination is illegal and must be set aside."*

10. *In Gujarat Steel Tubes Ltd. and Ors. v. Gujarat Steel Tubes Mazdoor Sabha and Ors. (1980(2) SCC 593) it was observed as follows :*

"53 : Masters and servants cannot be permitted to play hide and seek with the law of dismissals and the plain and proper criteria are not to be misdirected by terminological cover-ups or by appeal to psychic processes but must be grounded on the substantive reason for the order, whether disclosed or undisclosed. The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is. If, thus, scrutinized, the order has a punitive flavour in cause or consequence, it is dismissal. If it falls short of this test, it cannot be called a punishment. To put it slightly differently, a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal, even if he had the right in law to terminate with an innocent order under the standing order or otherwise. Whether, in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature. Nor the fact that, after being satisfied of the guilt, the master abandons the enquiry and proceeds to terminate. Given an alleged misconduct and a live nexus between it and the termination of service the conclusion is dismissal,

even if full benefits as on simple termination, are given and non-injurious terminology is used.

54. On the contrary, even if there is suspicion of misconduct the master may say that he does not wish to bother about it and may not go into his guilt but may feel like not keeping a man he is not happy with. He may not like to investigate nor take the risk of continuing a dubious servant. Then it is not dismissal but termination simpliciter, if no injurious record of reasons or punitive pecuniary cut-back on his full terminal benefits is found. For, in fact, misconduct is not then the moving factor in the discharge. We need not chase other hypothetical situations here."

22. This principle was reiterated in "***Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre*** (1999) 3 SCC 60", wherein the Supreme Court held that if the termination is based on allegations which cast a stigma or are likely to prejudice the future prospects of the employee, the order cannot be treated as innocuous. Relevant extract of the same is as under:

*In the matter of 'stigma', this Court has held that the effect which an order of termination may have on a person's future prospects of employment is a matter of relevant consideration. In the seven Judge case in ***Samsher Singh v. State of Punjab***, 1974(2) SCC 831, Ray, CJ observed that if a simple order of termination was passed, that would enable the officer to "make good in other walks of life without a stigma". It was also stated in ***Bishan Lal Gupta v. State of Haryana***, 1978(1) SCC 202 that if the order contained a stigma, the termination would be bad for "the individual concerned must suffer a substantial loss of reputation which may affect his future prospects."*

24. There is, however, considerable difficulty in finding out whether in a given case where the order of termination is not a simple order of termination, the words used in the order can be said to contain a 'stigma'. The other issue in the case before us

is whether - even if the words used in the order of termination are innocuous, - the court can go into the words used or language employed in other orders or proceedings referred to by the employer in the order of termination ?

25. As to what amounts to stigma has been considered in **Kamal Kishore Lakshman v. Pan American World Airways, 1987(1) SCC 146**. This Court explained the meaning of 'stigma' as follows (p. 150) :

"According to Webster's New World Dictionary, it (stigma) is something that detracts from the character or reputation of a person, a mark, sign etc., indicating that something is not considered normal or standard. The Legal Thesuras by Burton gives the meaning of the word to be blemish, defect, disgrace, disrepute, imputation, mark of disgrace or shame. The Webster's Third New International Dictionary gives the meaning as a mark or label indicating a deviation from a norm. According to yet another dictionary 'stigma' is a matter for moral reproach."

23. Similarly, in **"Jayesh Pravin Chandra Modi v. State of Gujarat R/special Civil Application No. 7166 of 2019"**, the Apex Court reiterated that once misconduct forms the basis of termination, a full-scale enquiry becomes indispensable, while holding that:

"5.3 What is evident from reading the contents of the decision is that if initiation of action is based on an unsatisfactory work, gross negligence or indiscipline, it tantamounts to being stigmatic and unless and until a full scale departmental inquiry is held, irrespective of whether the employee is a regular employee or a contractual employee, the result has to be the same."

Contractual Power and Constitutional Discipline

24. The submission of the respondents that the petitioner's services could be terminated at any time under the contract does not carry the

unfettered. The State and its instrumentalities are bound by constitutional discipline even while acting in the contractual domain.

25. The Supreme Court has consistently held that arbitrariness is antithetical to equality. Where the State chooses to terminate a contract not for administrative convenience but on allegations casting stigma, it must conform to the minimum standards of fairness, reasonableness, and non-arbitrariness.

26. A termination clause cannot be used as a cloak for punitive action. What cannot be done directly by imposing punishment without enquiry cannot be achieved indirectly by invoking contractual terms.

Non-Determination of Causation

27. Equally significant is the complete absence of any investigation or finding to establish a causal link between the vaccination administered by the petitioner and the unfortunate death of the child. The record reveals that the petitioner administered vaccination not to a single child, but to more than one hundred children, both prior to and on the same day, without any adverse incident.

28. It is not disputed that the death in question was an isolated occurrence, and no material has been placed on record to demonstrate that the petitioner deviated from prescribed SOPs. No enquiry under the Adverse Events Following Immunization (AEFI) guidelines was conducted. No expert opinion, medical board report, or post-mortem finding fixing responsibility on the petitioner has been produced.

29. In matters involving medical intervention and public health, causation cannot be presumed, it must be established through evidence.

To attribute negligence merely because a death followed vaccination is to

indulge in conjecture, not adjudication. The doctrine of fair attribution of blame demands that responsibility be fixed only after a structured process of enquiry, particularly where the consequences are grave and the allegations serious.

30. The material on record, on the contrary, shows that the petitioner immediately referred the child to the Civil Hospital and informed the medical authorities, which is consistent with the SOPs governing AEFI cases. There is no finding indeed not even an allegation supported by material that the petitioner failed to act promptly or in accordance with protocol. In the absence of any recorded finding of dereliction, the conclusion of negligence is legally unsustainable. Suspicion, however strong, cannot take the place of proof.

Principles of Natural Justice

31. The denial of notice and opportunity of hearing further compounds the illegality. When civil consequences of such magnitude ensue loss of livelihood, stigma on professional record, and erosion of reputation, the minimum requirement of *audi alteram partem* cannot be dispensed with. The termination in the present case was effected unilaterally, without confronting the petitioner with the allegations or affording her an opportunity to explain. Such an approach is contrary to the most basic tenets of natural justice and cannot be countenanced in a constitutional democracy governed by rule of law.

32. Equally important is the human dimension of the matter, which the law does not ignore. The petitioner is a grassroots health worker who has served the public health system for nearly a decade, discharging her duties in demanding field conditions. Public servants engaged in frontline

healthcare cannot be made scapegoats for tragic outcomes unless culpability is clearly established through due process. To do otherwise would not only be unjust to the individual but would also undermine the morale of public health workers entrusted with essential duties.

Conclusion

33. Viewed from any angle, whether on the touchstone of service jurisprudence, constitutional fairness, or principles of natural justice, the impugned order dated 17.05.2023 (Annexure P-13) cannot be sustained. Accordingly, the writ petition is allowed. The impugned order dated 17.05.2023 is hereby quashed and set aside and the respondents are directed to take back the petitioner in service with continuity of service for the interregnum as well as consequential benefits as if the order of termination was not passed. Consequential benefits shall follow in accordance with law. The same shall be done within a period of eight weeks from the date of receipt of certified copy of this order.

34. Therefore, the present petition is allowed.

35. Ordered Accordingly.

(SANDEEP MOUDGIL)
JUDGE

06.02.2026
anuradha

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