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W.P. No.9914/2022

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No.9914 of 2022

AKHILESH NIMAWAT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Mradul Bhatnagar - Advocate for the petitioner.

***Ms. Swati Ukhale - Govt. Adv. for the respondents No.1 and
3/State.***

Shri Tarun Kushwah - Advocate for the respondent No.2

Reserved on : 12/05/2026

Post on : 15/05/2026

ORDER

This is a Writ Petition filed under Article 226 of the Constitution of India, invoking the extraordinary writ jurisdiction of



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this Court to challenge the arbitrary and mala fide exercise of power by the respondent Authorities.

2. The petitioner seeks the quashing of the impugned termination orders dated 15.04.2021 and 24.01.2022, as well as the reinstatement order dated 03.12.2021. The petitioner further prays for a direction to the respondents to allow him to continue performing his duty as a permanent worker since the date of initial termination, along with the payment of arrears and pending wages.

3. The primary grievance of the petitioner is that his services were terminated, and his category was subsequently downgraded from a permanent worker to a temporary daily wager, without affording any proper opportunity of hearing or adhering to the principles of natural justice.

Facts of the Case

4. The petitioner initially commenced working as a daily wager on 01.03.1995. His services were terminated on 28.03.2000, against which he approached the Labour Court. The Labour Court, vide order dated 11.07.2002, reinstated the services of the petitioner.

5. After working for almost 10 years, the petitioner approached this Court via Writ Petition No.5219/2012 seeking permanent



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status. Pursuant to the order of this Court dated 12.09.2012, the petitioner was confirmed as a permanent worker on 07.10.2017, and his category was rectified to a skilled worker vide order dated 29.06.2018.

6. The petitioner was performing his assigned duties when he was served with a show-cause notice on 13.01.2021, alleging that he failed to follow the instructions of the SDM and Incident Commander, Ratlam. The petitioner submitted his reply on 14.01.2021, stating he had not received any such instructions or orders regarding the specified duty and that he was performing his regular tasks even while sick.

7. Without conducting any inquiry or considering the reply properly, the respondents terminated the petitioner's services vide order dated 15.04.2021. Subsequently, vide order dated 03.12.2021, the petitioner was reinstated but demoted to the status of a daily wager. Following a representation and legal notice for pending payments and permanent status, his services were once again terminated vide order dated 24.01.2022.

Contentions of the Petitioner

8. The petitioner contends that the termination letters issued by the respondent No.2 are unjust, unfair, perverse, illegal, and



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arbitrary. It is submitted that the petitioner performed his duties continuously for several years with dedication, yet his services were dispensed with in a high-handed manner.

9. It is pleaded that the petitioner never received any formal order or instruction from any department or superior to perform duty regarding fine collection for masks. Consequently, terminating his services for an alleged lapse concerning an un-communicated order is highly illegal and against the principles of natural justice.

10. The petitioner further argues that after rendering long years of service, he was rightfully appointed to a permanent post by the intervention of this Court. Relegating him to the status of a daily wager through the reinstatement order dated 03.12.2021 ignores his confirmed status and the previous judicial pronouncements in his favor.

11. Lastly, it is submitted that the termination was executed without conducting any Departmental Inquiry to establish the alleged misconduct, thereby violating his fundamental and legal rights.



Contentions of the Respondents

12. *Per contra*, the respondents submit that the show-cause notice dated 13.01.2021 was issued to the petitioner for negligent behavior, indiscipline, and failure to improve his working style. He had specifically failed to follow the instructions given by the Sub Divisional Officer and the Incident Commander, Ratlam.

13. The respondents contend that the reply submitted by the petitioner on 14.01.2021 was found to be un-satisfactory. Based on his in-discipline and dis-obedience to the orders of Higher Officials, his services were rightly terminated on 15.04.2021.

14. It is further submitted that upon an assurance given by the petitioner on 31.10.2021 to perform his duties sincerely, he was given a last ultimatum and reinstated as a daily-rated employee on 03.12.2021. The respondents rely on government memorandums dated 07.10.2016 and 01.08.2017 to justify that a dismissed permanent employee cannot be reinstated with permanent status.

15. Finally, the respondents/State that after the re-instatement on 03.12.2021, the petitioner exhibited irregular attendance, made unreasonable and legally impracticable demands, and showed an unwillingness to work, which necessitated the final termination order dated 24.01.2022.



Analysis and Conclusion

16. Heard the rival contentions of learned counsel for the parties and perused the record. The jurisdiction of this Court under Article 226 of the Constitution of India in matters of employment and termination is primarily concerned with the decision-making process, ensuring that the actions of the state authorities are fair, reasonable, and within the bounds of law.

17. The core issue for determination is whether the termination of the petitioner was executed in compliance with the principles of natural justice. Upon a bare perusal of the record, it is unequivocally clear that there was no compliance of natural justice prior to the issuance of the impugned termination orders.

18. The respondents have terminated the services of the petitioner by merely issuing a show-cause notice and discarding his reply as unsatisfactory, without conducting any formal Departmental Enquiry. It is a well-settled proposition of law that even though an employee may be appointed as a contractual or daily employee, the principles of natural justice must strictly be followed when termination is founded on allegations of misconduct.



19. This position of law is fortified by the decision of this Court in the case of **Malkhan Singh Malviya Vs. State of M.P., W.A. No. 1166/2017, decided on 08.03.2018,** wherein it was held:

“13. Reverting to the facts of the case, it is noticeable that before casting stigma on the petitioner by holding him guilty of misconduct, a mere preliminary inquiry report prepared behind the back of the petitioner and reply of petitioner to the show cause notice was considered by the competent authority before issuing order of termination of service. The misconduct as alleged in the show cause notice and the preliminary inquiry conducted behind the back of the petitioner were the foundation of the termination. The termination was not merely on the basis of finding the services of the petitioner to be no more required but because he was found guilty of the misconduct.”

20. In the instant case, the allegations of disobedience and indiscipline were clearly the foundation of the termination. Casting such a stigma upon the petitioner without adducing evidence in a properly constituted inquiry is legally impermissible. Thus, the impugned termination orders cannot be sustained.

21. Furthermore, since the initial termination is found to be bad in law, the subsequent order dated 03.12.2021, which arbitrarily changed the petitioner's legally established category from a permanent worker to a daily wager, also lacks legal sanctity and is liable to be set-aside.



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22. Resultantly, the present Writ Petition is **allowed**. The impugned termination orders dated 15.04.2021 and 24.01.2022, as well as the reinstatement order dated 03.12.2021 issued by respondent No. 2, are hereby **quashed** and **set-aside**.

23. The respondents are directed to reinstate the petitioner and allow him to continue to perform his duty as a permanent worker. It is further directed that the payment of the petitioner from December 2020 to 31.10.2021 shall also be released, if not already paid to the petitioner.

24. However, it is made clear that this order shall not preclude the respondents from initiating fresh Departmental Proceedings against the petitioner in respect of the alleged misconduct, if they so desire, strictly in accordance with the law and by affording due opportunity of hearing to the petitioner.

25. Pending applications, if any, shall stand disposed of accordingly.

No order as to costs.

(Jai Kumar Pillai)
Judge

Aiyer*PS