



CGHC010166732025



2026:CGHC:28735

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3073 of 2025**

Kamlesh Kumar Sahu S/o Late Lakhan Prasad Sahu Aged About 47 Years R/o Amrish Vihar, Ameri, Bilaspur, District Bilaspur Chhattisgarh.

... Petitioner**versus**

1 - State Of Chhattisgarh Through Its Principal Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, Chhattisgarh.

2 - The Director Of Public Instruction Directorate Of Public Instruction, Indrawati Bhawan, Nava Raipur, Atal Nagar, Chhattisgarh.

3 - The Joint Director Of Education Bilaspur Division, Bilaspur, Chhattisgarh.

4 - The Collector Bilaspur, District Bilaspur Chhattisgarh.

5 - The District Education Officer District Bilaspur, Chhattisgarh.

6 - The Block Education Officer Block Bilha, District Bilaspur Chhattisgarh.

7 - The Head Master Government Middle School, Godaiya, Block Bilha, District Bilaspur Chhattisgarh.

... Respondent(s)

For Petitioner : Mr. Ashutosh Trivedi, Advocate

For Respondents/ State : Ms. Apurva Nigam, Panel Lawyer

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

09/07/2026

1. By the present writ petition, the petitioner seeks quashment of the order dated 07.02.2025 (Annexure P/1) whereby the services of the petitioner has been dismissed, under the provisions of Rule 10 of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 for short "the Rules, 1966") and further seeks his reinstatement in the service with all consequential benefits. The petitioner further seeks a direction towards the respondents to consider and decide his pending representation dated 25.02.2025 (Annexure P/2).
2. Learned counsel for the petitioner submits that the petitioner, who is a Teacher, has challenged the dismissal order dated 07.02.2025, whereby he has been dismissed from service on the allegation of sending an objectionable WhatsApp message and making a video call to a girl student. He submits that the impugned order has been passed without issuing any show cause notice or conducting any departmental enquiry and without affording any opportunity of hearing to the petitioner, in gross

violation of the principles of natural justice. He further submits that the allegations have not been established in accordance with law and the order of dismissal, being stigmatic in nature, has seriously prejudiced the petitioner's career and future prospects. It is, therefore, contended that the impugned order is arbitrary, illegal and unsustainable in law and deserves to be quashed.

3. *Per contra*, learned State counsel opposes the submissions made by learned counsel for the petitioner and submits that the petitioner was dismissed from service in view of the serious nature of the misconduct alleged against him. She submits that the competent authority, after considering the material available on record, passed the impugned order in exercise of powers conferred under Rule 10 of the Rules, 1966. It is, therefore, contended that the impugned order does not suffer from any illegality or arbitrariness warranting interference by this Court.
4. I have heard learned counsel for the parties and perused the material available on record.
5. Having given anxious consideration to the submissions advanced by learned counsel for the parties and upon perusal of the material available on record, this Court finds that the impugned order dated 07.02.2025 appears to have been passed without due application of mind by the competent authority and without following the prescribed procedure before imposing the major penalty of dismissal from service.

6. Without going into the merits of the case, which requires proper enquiry, as the same has been dispensed with in the instant case, I proceed to take the issue of application of provisions of Article 311 (2) (b) of the Constitution of India, in the facts of the present case.
7. It is indisputable that before imposing a major penalty under Rule 10 of the Rules, 1966 and before passing the impugned order, proper departmental enquiry has to be conducted in accordance with the procedure laid down in Rule 14 of the Rules, 1966 and the same has not been done in the instant case.
8. It will be useful to quote the provisions of Article 311 of the Constitution of India, which reads as under :

“311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.—(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply—

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.”

9. Provisions of Article 311 (2) provides that no person who is holding a civil post shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the

charges against him and given a reasonable opportunity of being heard in respect of those charges. It is further provided that the aforesaid provision shall not be applicable in case the dismissal or removal or reduction in rank was done on the ground of conduct which has led to his conviction on a criminal charge and under Article 311 (2) (b) where the authority empowered is satisfied that for some reason, to be recorded by that authority in writing or under clause (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

10. The instant case, as pleaded by the learned counsel for the respondents, comes within the purview of Article 311 (2) (b) of the Constitution. Before satisfaction of the authority empowered to dismiss or remove or to reduce him in the rank, reason has to be recorded in writing. Thus, mere satisfaction without recording reasons, the authority cannot invoke Article 311 (2) (b) of the Constitution for dispensing with enquiry, as required under the main provision of Article 311 (2) of the Constitution. Even the reasons recorded are also subject to judicial review, as the same should be strong, cogent and relevant for taking such a decision.
11. A constitution Bench of the Supreme Court in *Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others*¹, observed as under :

1 AIR 1978 SC 851

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out...”

12. Another constitution Bench of the Supreme Court in *Union of India and Another v. Tulsiram Patel*², observed as under :

“130....A disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the department's case against the government servant is weak and must fail....

133. The second condition necessary for the valid application of clause (b) of the second proviso is that the disciplinary authority should record in writing its reason for its satisfaction that it was not reasonably practicable to hold the inquiry contemplated by Article 311(2). This is a constitutional obligation and if such reason is not recorded in writing, the order dispensing with the inquiry and the order of penalty following thereupon would both be void and unconstitutional.

² (1985) 3 SCC 398

134. It is obvious that the recording in writing of the reason for dispensing with the inquiry must precede the order imposing the penalty. The reason for dispensing with the inquiry need not, therefore, find a place in the final order. It would be usual to record the reason separately and then consider the question of the penalty to be imposed and pass the order imposing the penalty. It would, however, be better to record the reason in the final order in order to avoid the allegation that the reason was not recorded in writing before passing the final order but was subsequently fabricated. The reason for dispensing with the inquiry need not contain detailed particulars, but the reason must not be vague or just a repetition of the language of clause (b) of the second proviso. For instance, it would be no compliance with the requirement of clause (b) for the disciplinary authority simply to state that he was satisfied that it was not-reasonably practicable to hold any inquiry....”

13. In *Jaswant Singh v. States of Punjab and Others*³ the Supreme Court observed as under :

“5.....The decision to dispense with the departmental enquiry cannot, therefore, be rested solely on the ipse dixit of the concerned authority. When the satisfaction of the concerned authority is questioned in a court of law, it

3 (1991) 1 SCC 362

is incumbent on those who support the order to show that the satisfaction is based on certain objective facts and is not the outcome of the whim or caprice of the concerned officer. In the counter filed by respondent 3 it is contended that the appellant, instead of replying to the show cause notices, instigated his fellow police officials to disobey the superiors. It is also said that he threw threats to beat up the witnesses and the Inquiry Officer if any departmental inquiry was held against him. No particulars are given. Besides it is difficult to understand how he could have given threats, etc. when he was in hospital. It is not shown on what material respondent 3 came to the conclusion that the appellant had thrown threats as alleged in paragraph 3 of the impugned order. On a close scrutiny of the impugned order it seems the satisfaction was based on the ground that he was instigating his colleagues and was holding meetings with other police officials with a view to spreading hatred and dissatisfaction towards his superiors. This allegation is based on his alleged activities at Jullundur on April 3, 1981 reported by SHO/GRP, Jullundur. That report is not forthcoming. It is no one's contention that the said SHO was threatened. Respondent 3's counter also does not reveal if he had verified the correctness of the information. To put it tersely the subjective satisfaction recorded in paragraph 3 of the

impugned order is not fortified by any independent material to justify the dispensing with of the inquiry envisaged by Article 311(2) of the Constitution. We are, therefore, of the opinion that on this short ground alone the impugned order cannot be sustained.”

14. In *Tarsem Singh v. State of Punjab & Others*⁴, the Supreme Court, while dealing with the requirement of Article 311(2) of the Constitution of India, observed as under:

“11. We have noticed hereinbefore that the formal enquiry was dispensed with only on the ground that the appellant could win over aggrieved people as well as witnesses from giving evidence by threatening and other means. No material has been placed or disclosed either in the said order or before us to show that subjective satisfaction arrived at by the statutory authority was based upon objective criteria. The purported reason for dispensing with the departmental proceedings is not supported by any document.”

15. The decision of *Tulsiram Patel* (supra) was referred with approval in *Southern Railway Officers Association and Another v Union of India and Others*⁵.

16. The impugned order does not record any reasons for dispensing with the enquiry as laid down in Rule 14 of the Rules, 1966.

4 (2006) 13 SCC 581

5 (2009) 9 SCC 24

17. Since there is no reason at all for taking recourse to the exception, the decision of the authority is contrary to the constitutional provision of Article 311 (2) of the Constitution. Rule 14 of the Rules, 1966 prescribes the procedure, which is in consonance with the provisions of Article 311 (2) of the Constitution of India. On the allegations and averments, I do not propose to express any opinion, as no enquiry has been held in that respect.
18. Applying the well settled principles of law to the facts of the present case and for the reasons stated hereinabove, the impugned order dated 07.02.2025 (Annexure-P/1) is quashed. However, on the request of learned counsel appearing for the respondent authorities, liberty is reserved to the authority empowered to take decision to take appropriate steps, in accordance with the constitutional provisions as well as statutory rules, if so advised.
19. As an upshot, the writ petition is **allowed** to the extent indicated above.

Sd/-
(Bibhu Datta Guru)
JUDGE

Head Note

Mere satisfaction, without recording reasons, is not sufficient for the authority to invoke Article 311(2)(b) of the Constitution of India for dispensing with a departmental enquiry.