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WP-23618-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 27th OF FEBRUARY, 2026

WRIT PETITION No. 23618 of 2025

DURGA SINGH CHANDEL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Khalid Noor Fakhruddin - Advocate for the petitioner.

*Ms. Supriya Singh - Government Advocate for respondents No. 1
to 3/State.*

*Shri Bhanu Prakash Vishwakarma - Advocate for respondent No.4
and 5.*

Ms. Aditi Singh Thakur - Advocate for respondent No.6.
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ORDER

Petitioner has filed this petition under Article 226 of the Constitution of India challenging impugned orders dated 06.06.2025 (Annexure-P/1) and 05.12.2024 (Annexure-P-1/A and P-1/B).

2. By impugned orders, petitioner who was working as Assistant Revenue Inspector in Municipal Council, Khirkiya District-Harda (MP) was dismissed from service after completing 28 years of service.

3. Learned counsel appearing for petitioner submitted that no full-fledged departmental enquiry was conducted. No charges were framed.



No notice of enquiry was received by petitioner. No evidence was adduced and notice of imposing major penalty was not served upon him. Petitioner was tried in a criminal case under Section 498-A of the IPC and under Section 4 of the Dowry Prohibition Act. He was convicted by the trial Court and he had preferred an appeal before High Court. In said appeal his sentence was suspended. All of a sudden in July, 2024 order of dismissal from service was passed without conduct of departmental enquiry. It cannot be said that petitioner has violated Rule 35(1) of the Madhya Pradesh Nagar Palika Karmchari (Bharti Tatha Seva Sharte) Rules, 1968. It is submitted that impugned orders are contrary and in violative of law and deserves to be set aside. Prayer is made for quashing impugned orders and reinstatement of petitioner in service with all consequential benefits.

4. Learned Government Advocate appearing for respondent No.1 to 3 submitted that petitioner was convicted for two years R.I. and six months R.I. under Section 498-A of IPC and under Section 4 of the Dowry Prohibition Act. A question in legislative assembly was raised why no action has been taken against petitioner. Thereafter, Urban Administration and Development Department asked for an explanation from Municipal Council, Multai and, thereafter, a resolution was passed by President-in-Council and petitioner was removed from service. Petitioner has submitted its reply to notice. After considering reply of petitioner, impugned orders were passed and service of petitioner was



terminated. Proper opportunity of hearing was granted to petitioner. It is submitted that action has been taken in accordance with circular issued by GAD dated 08.02.1999. As per said circular, if a government employee is convicted in a criminal case involving moral turpitude then order of dismissal is to be passed under Rule 10 of the MP Civil Services (Classification, Control and Appeal), Rules, 1966. Said circular also lays down that detailed departmental enquiry is not necessary under Rules 14 and 19 and under Article 311(2)(a) of the Constitution of India. It is submitted that order has been passed in accordance with law and there are no procedural violation.

5. Learned counsel appearing for respondent No.6 submitted that conviction of petitioner in case of dowry demand amounts to misconduct and moral turpitude under Rule 35 of the Madhya Pradesh Nagar Palika Karmchari (Bharti Tatha Seva Sharte) Rules, 1968. Impugned orders were passed in accordance with law and there is no violation of principle of natural justice. Petitioner was issued notice and he was aware of his conviction and had opportunity to submit his explanation. Reliance is placed on the judgment passed in case of *Union of India Vs. Tulsiram Patel* reported in *AIR 1985 SC 1461* wherein it has been held that when misconduct is founded on conviction in a criminal case, dismissal can be ordered without departmental enquiry under the proviso to Article 311(2) of the Constitution of India. In view of same, no interference may be called for and petition may be dismissed.



6. Heard the counsel for the parties.

7. Article 311(2)(a)(3) is quoted as under:-

"311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State-

(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)****

*(c)****

(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."

8. From perusal of Article 311 of the Constitution of India, it is clear that no punitive action of dismissal or removal or reduction in rank is to be taken without conduct of proper departmental enquiry in which charges are required to be framed and evidence is to be adduced and delinquent employee is to be given opportunity of hearing. However, such departmental enquiry may not be held if an order is passed under Article 311(3) that holding of such departmental enquiry is not reasonably practicable. Article 311(2) has a proviso which lays down that provision of Article 311(2) is not applicable if a person is dismissed or removed or reduced in rank on ground of conduct which led to his conviction on a criminal charge.

9. Proviso (a) of Article 311(2) lays down that procedure laid down in Article 311(2) is not to be followed in case of conviction on a criminal charge. However, to safeguard any injustice, it is required to follow a bare minimum procedure of issuing a show cause notice before termination of service or dismissal when an employee is convicted on a criminal charge. Full fledged departmental enquiry and recording of evidence, as laid down in Article 311(2), is not required, as case will be covered under proviso of Article 311(2)(a).

10. In this case, show cause notice has been issued to petitioner



before terminating his service. Issuance of show cause notice for termination of service on grounds of conviction in a criminal trial is reasonable and fair opportunity of hearing. Petitioner was given said opportunity. Conviction of an employee under Section 498-A of IPC and Section 4 of Dowry Prohibition Act amounts to moral turpitude as demand of dowry is associated with greed of a person to get more money by harassing a bride or her relatives.

11. On basis of aforesaid facts and circumstances, no error has been committed by respondents in passing impugned orders dated 06.06.2025 (Annexure-P/1) and 05.12.2024 (Annexure-P-1/A and P-1/B).

12. Writ petition is **dismissed**.

(VISHAL DHAGAT)
JUDGE

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