IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 6713 of 2026
Decided on 19.08.2026

Roshan Lal

Petitioner.

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

[1]Whether approved for reporting? Yes.

For the petitioner: **Mr. Shakti Bhardwaj, Advocate.**

For the respondents: **Mr. Pushpender Jaswal, Additional Advocate General.**

Ajay Mohan Goel, Judge *(Oral)*

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

> *"i) Issue a writ in the nature of certiorari for quashing and setting aside the termination order dated 03.05.2025, passed by respondent No.2;*
>
> *ii) Direct the respondents to reinstate the petitioner in service with all consequential benefits."*

2. The facts involved in the instant petition are in a very narrow compass. The petitioner was initially engaged as a Trained Graduate Teacher (Arts) on contract basis under Scheduled Caste (IRDP) category. His services were

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regularized in terms of office order dated 22.06.2015. However, in terms of order dated 3.5.2025, the services of the petitioner have been terminated by Director of School Education on the ground that a complaint was received against him that he had procured a false certificate depicting himself as a candidate belonging to Scheduled Caste (IRDP) category and an inquiry held in the said complaint resulted in the finding that indeed the petitioner was belonging to General Category and not Scheduled Caste category. Learned counsel for the petitioner has, *inter alia,* argued that though the contention of the Department that the petitioner was initially appointed on the strength of a Scheduled Caste category is *per se* bad, as he was appointed as a General Category candidate, but he submitted that *de hors* the said fact, otherwise also, the impugned order is not sustainable in the eyes of law in the light of the provisions of Article 311 of the Constitution of India. Learned counsel submitted that in terms of Article 311 of the Constitution, no person, who is a member of a civil services of a State or holds a civil post under the State, shall be dismissed or removed by an

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Authority, except by holding an inquiry, in which, he has to be informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. He submitted that after regularization of the services of the petitioner, he is governed by the CCS (CCA) Rules and as dismissal from service is a major penalty, said penalty could not have been imposed without following the procedure prescribed in the CCS (CCA) Rules for imposing a major penalty upon him. Accordingly, he submitted that as the impugned order is *prima facie* bad in law, the present petition be allowed by quashing the impugned order.

3. On the other hand, learned Additional Advocate General argued that as the petitioner had obtained the job on the basis of a false certificate and as an inquiry which was held on the basis of a complaint filed against him revealed that he indeed belonged to General Category and he had wrongly obtained the certificate depicting himself to be a member of Scheduled Caste category, the Authority rightly terminated his services in terms of Condition No. 14 of the appointment order with immediate effect.

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4. I have heard learned counsel for the parties and have also carefully gone through the pleadings and documents appended therewith.

5. The short question which this Court has to decide in the present case is whether the termination of the services of the petitioner without holding an inquiry, as is envisaged in Rule 14 of the CCS (CCA) Rules is sustainable in the eyes of law or not. This Court is not going into the controversy as to whether the petitioner was appointed as a General Category candidate or as a Scheduled Caste category candidate, or whether the Scheduled Caste certificate on the strength allegedly whereof the petitioner obtained the job, was a procured certificate.

6. Article 311 of the Constitution of India, *inter alia,* provides 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 Slate shall be dismissed or removed by a 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 hi m and given a reasonable*

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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 hi s 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."

7. In terms of Clause (2) of Article 311 of the Constitution of India, no such person, as is mentioned in Clause (1) thereof, 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. Chapter V of the CCS (CCA) Rules deals with Penalties and Disciplinary Authority. Rule 11 defines penalty and dismissal

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from service stands defined as a major penalty. The procedure of imposing a major penalty is provided in Part VI of the said Rules and Rule 14 thereof lays down the procedure for imposing major penalty. Rule 14 read with Rule 15 of the CCS (CCA) Rules lay down the procedure as to how a major penalty has to be imposed upon an incumbent.

8. Primarily, the procedure, which is prescribed in Rule 14 and 15 of the CCS (CCA) Rules provides that initially a memo of charges is furnished upon the delinquent employee and his response is sought by the Disciplinary Authority on the same. If after receipt of the response, the Disciplinary Authority is satisfied with the explanation, the charges are dropped. However, if the Disciplinary Authority is not satisfied with the response of the delinquent employee, then the Disciplinary Authority orders an inquiry. An Inquiry Officer is appointed and the inquiry is held by the Inquiry Officer, in which the delinquent employee is given full opportunity to put forth his case. After the completion of inquiry, the inquiry report is submitted by the Inquiry Officer to the Disciplinary Authority. Rule 15 thereafter lays down the

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procedure as to how the Disciplinary Authority has to proceed with the matter after receipt of the inquiry report which, *inter alia,* includes that the inquiry report has to be furnished by the Disciplinary Authority to the delinquent employee and his comments or objections, if any, are to be sought thereto and thereafter the Disciplinary Authority has to pass an order either imposing major penalty or not imposing any penalty.

9. In the present case, admittedly, this procedure has not been followed at all. In fact, in this case, what the respondents did was that upon receipt of the complaint, vide letter dated 3.2.2025,copy whereof is appended with the petition as Annexure P-3, the petitioner was called upon to explain as to how he had availed the benefit of Scheduled Caste (IRDP) category, though he was not belonging to the said category. Thereafter, vide Annexure P-4, communication dated 20.03.2025, he was directed to appear in person before Director, Elementary Education, to explain his position along with supporting documents. The petitioner filed his reply in terms of Annexure P-5 and thereafter Annexure P-6 which is the impugned order was passed. In

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fact, Annexure P-5 demonstrates that in terms thereof, the petitioner had sought time from the Authority to explain his position *qua* the alleged frivolous charges which were levelled against him. Thus, it is evident and apparent from the above that the provisions of Article 311 of the Constitution of India as also Rule 14 and 15 of CCS (CCA) Rules have been flouted with impunity by the respondents in the present case. In fact, a perusal of the impugned order demonstrates that the services of the petitioner have been terminated by referring to Condition No. 14 of the appointment order. It is settled law that when a person is appointed to a Government service, his service is governed by the service conditions and not by any other conditions. Service conditions, which regulate termination/removal etc. from service are governed by the provisions of Article 311 of the Constitution as also Rule 14 and 15 of the CCS (CCA) Rules. Therefore, the Authority could not have had terminated the services of the petitioner by simply placing reliance upon Condition No.14 of the appointment order. The procedure, as is envisaged in Rule 14 and 15 was mandatorily to be followed by the

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Authority before any punishment was inflicted upon the petitioner. Not following the same vitiates everything.

10. Accordingly, in light of the above observations, this petition is allowed. Annexure P-6, office order dated 3.5.2025 is quashed and set aside. Consequences to ensue. However, as the petition is being allowed on technical grounds, the respondents are at liberty to proceed against the petitioner in accordance with law with regard to the issues which resulted in the issuance of office order dated 3.5.2025. With these observations, the writ petition is disposed of.

11. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

August 19, 2026
(Guleria)

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