

विषय:-न्यायालयीन प्रकरण क्रमांक डब्ल्यू0पी0 6685/2015 डॉ. चन्द्रकांत चौरसिया, मेडिकल आफिसर, विदिशा, विरुद्ध मध्यप्रदेश शासन एवं अन्य में प्रभारी अधिकारी नियुक्त किये जाने बाबत ।

डॉ. चन्द्रकांत चौरसिया, मेडिकल आफिसर, विदिशा, ने माननीय उच्च न्यायालय खण्डपीठ ग्वालियर, मे विभागीय जांच के संबंध में याचिका दायर की है। विषयांकित न्यायालय प्रकरण में प्रमुख सचिव, /आयुक्त स्वास्थ्य, भोपाल को प्रतिवादी बनाया गया है। प्रकरण विदिशा जिले से संबंधित है ।

माननीय न्यायालय द्वारा प्रकरण की सुनवाई दिनांक 13/04/2016 को नियत है/थी, जिसमें शासन पक्ष की ओर से प्रतिरक्षण किये जाने एवं वादोत्तर समय-सीमा में प्रस्तुत किये जाने हेतु उप संचालक (शिकायत) स्थानीय कार्यालय, को प्रभारी अधिकारी नियुक्त किया जाना प्रस्तावित है। माननीय न्यायाधीश की दृष्टि में आदेश की तत्त्व जड़ि में विदिशा जिला अधिकारी प्रमुख है। प्रतिरक्षण आदेश हेतु नवित निधि-विभाग को अंगित किया जाना प्रस्तावित है।
प्रभारी अधीक्षक, (लीगल)

DD (legal) - M.A.

Director (Legal)

विधि विभाग

आवक क्र० 403-404, दि० 10/03/16

10/3/16
संचालक
स्वास्थ्य सेवायें
मध्यप्रदेश

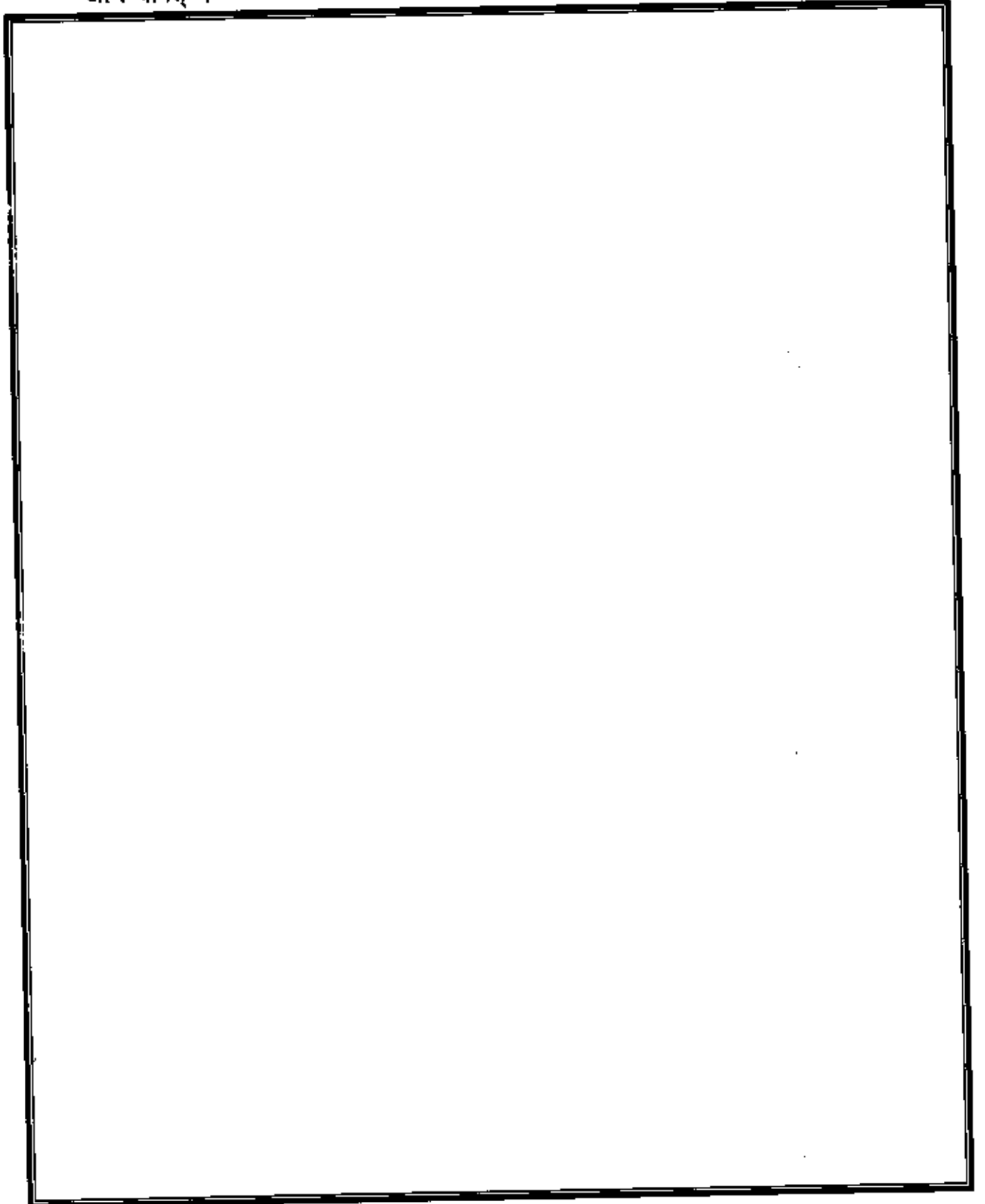
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आवक क्र० 403-404
दि० 10/03/16

आवक क्र०/लीगल/2016/179
दिनांक 21/03/16

- 2 -

विषय:-न्यायालयीन प्रकरण क्रमांक डब्ल्यू०पी० ६६६५/२०१५ डॉ. चन्द्रकांत चौरसिया, मेडिकल आफिसर, विदिशा, विरुद्ध मध्यप्रदेश शासन एवं अन्य में प्रभारी अधिकारी नियुक्त किये जाने बाबत ।



R. NO. 75

**IN THE HIGH COURT OF MADHYA PRADESH : Bench at
GWALIOR**

Process Id: 6668/2016

WP/6685/2015

FOR FINAL HEARING

Fixed for 13-04-2016

DA-08

Respondent No. 2

RAD

From

Deputy Registrar,
High Court of MP
Bench at Gwalior

To,

The Commissioner,
Health Services, Bhopal,
District- Bhopal (MADHYA PRADESH),

Gwalior 23-02-2016

Sub: Notice to Respondent No. 2 in writ Petition(Mandamus/Prohibition/ Certiorari/Quo Warranto) No. **WP/ 6685/ 2015**

Sir/Madam,

I am directed to inform you that one **Dr.chandra Kant Chaurasiya** has filed a petition under Article 226 of the Constitution of India (Copy enclosed) in this Court, and the same is registered as Writ Petition (Mandamus/ Prohibition/ Certiorari/ Quo Warranto) No. **WP/6685/2015**

Take notice that you are required to submit a return personally or through a duly engaged Advocate on or before **13-04-2016**. If no return is filed as aforesaid, the petition will be heard and decided exparte.



AFFIXED AT GWALIOR

Your faithfully

SECTION OFFICER

Section Officer
High Court of Madhya Pradesh
Bench Gwalior

33

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**IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR**

W.P. NO. 6685/2015

PETITIONER :

Dr. Chandra Kant Chaurasiya

Versus

RESPONDENTS :

State of Madhya Pradesh and
others

LIST OF EVENTS

Date	Description	Annexure
	The petitioner feels aggrieved by the order dated 26.9.2012 passed by the State Government in the name of Hon'ble the Governor, whereby the petitioner has been dismissed from the services for the reason that he remained unauthorized absent with effect from 28.2.2009 when he was transferred to Umariya District Umariya. The enquiry was conducted by a retired employee who was earlier holding the post of Under Secretary of the State Government and the said post was carrying the pay scale of Rs.10000-325-15200 whereas the revised pay scale of the post of the petitioner i.e. Asstt. Surgeon was Rs.12000-375-16500/-. In such eventuality a person who stood retired and should not have been appointed as Enquiry Officer got enquiry conducted in ex parte against the petitioner and ultimately on the basis of report submitted by the said person the petitioner has been dismissed from the services. It is submitted that the	P/1 to P/13

236
23/9/15

petitioner in view of his order of transfer dated 28.2.2009 never joined in Umariya, however he was relieved on 9.5.2009. The transfer order was subsequently cancelled and accordingly the petitioner rejoined on 20.10.2009 at Vidisha. The charge-sheet was sent to Umariya and neither the Civil Surgeon cum Hospital Superintendent working in Umariya nor the respondents knowingly fully aware that the petitioner was not working in Umariya made a remark with respect to non-service of the said charge-sheet on the petitioner. The fact remains that the charge-sheet was never sent to the petitioner on his official address at Vidisha. Moreover the charge-sheet and entire proceedings were forwarded to Umariya where the petitioner never joined. Thus the entire enquiry has been conducted in such an arbitrary and hasty manner that the same has to be termed as in-violation of Article 14 of the Constitution of India.

Date:-
Gwalior

Humble petitioner
Through Counsel

(M.P.S.Raghuvanshi)

(D.S. Raghuvanshi)
Advocates

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR

W.P. NO. /2015
PETITIONER : Dr. Chandra Kant Chaurasiya
Versus

RESPONDENTS : State of Madhya Pradesh and
others

INDEX

S.No. DESCRIPTION OF ANNEXURE No. PAGE No.
DOCUMENTS

1.	Writ Petition		1-18
2.	Affidavit		19-20
3.	List of Documents		21
4.	Copy of order dt.26.9.2012	P/1	22-23
5.	Copy of appointment order	P/2	24-25
6.	Copy of order	P/3	26-27
7.	Copy of letter	P/4	28
8.	Copy of relieving order	P/5	29
9.	Copy of order	P/6	30
10.	Copy of order	P/7	31
11.	Copy of charge-sheet	P/8	32-35
12.	Copy of order	P/9	36
13.	Copy of circular	P/10	37-40
14.	Copy of enquiry report	P/11	41-44
15.	Copy of letter	P/12	45-46
16.	Copy of order	P/13	47-53
17.	Power		54

Date:-
Gwalior

Humble petitioner
Through Counsel

(M.P.S.Raghuvanshi)

(D.S. Raghuvanshi)
Advocates

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR

W.P. NO. /2015

PETITIONER : Dr. Chandra Kant Chaurasiya,
 S/o Late Shri Harishankar
 Chaurasiya, Aged 43 years,
 Occupation: Asstt. Surgeon
 (Since terminated), R/o 55,
 Krishna Colony, Vidisha (M.P.)

Versus

RESPONDENTS : 1. State of Madhya Pradesh
 through the Principal
 Secretary, Public Health and
 Family Welfare Department,
 Govt. of M.P., Vallabh
 Bhawan, Bhopal (M.P.)
 2. The Commissioner, Health
 Services, Bhopal (M.P.)

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

MAY IT PLEASE THIS HON'BLE COURT.

The Humble petitioner submits this petition as
 under:

(1) **PARTICULARS OF THE CAUSE/ORDER AGAINST
WHICH THE PETITION IS MADE:**

(1) Date of Order/Notification/Circular/Policy/

Decision etc:

(2) Passed in (Case or File Number) File No.

(3) Passed by (Name and designation of the Court,
Authority, Tribunal etc.):

(4) Subject-matter in brief:

The petitioner feels aggrieved by the order dated 26.9.2012 passed by the State Government in the name of Hon'ble the Governor, whereby the petitioner has been dismissed from the services for the reason that he remained unauthorized absent with effect from 28.2.2009 when he was transferred to Umariya District Umariya. The enquiry was conducted by a retired employee who was earlier holding the post of Under Secretary of the State Government and the said post was carrying the pay scale of Rs.10000-

325-15200 whereas the revised pay scale of the post of the petitioner i.e. Asstt. Surgeon was Rs.12000-375-16500/-. In such eventuality a person who stood retired and should not have been appointed as Enquiry Officer got enquiry conducted in ex parte against the petitioner and ultimately on the basis of report submitted by the said person the petitioner has been dismissed from the services. It is submitted that the petitioner in view of his order of transfer dated 28.2.2009 never joined in Umariya, however he was relieved on 9.5.2009. The transfer order was subsequently cancelled and accordingly the petitioner rejoined on 20.10.2009 at Vidisha. The charge-sheet was sent to Umariya and neither the Civil Surgeon cum Hospital Superintendent working in Umariya nor the respondents knowingly fully aware that the petitioner was not working in Umariya made a remark with respect to non-service of the said charge-sheet on the petitioner. The fact remains that the charge-sheet was never sent to the petitioner on his official address at Vidisha. Moreover the charge-sheet and entire proceedings were forwarded to Umariya

where the petitioner never joined. Thus the entire enquiry has been conducted in such an arbitrary and hasty manner that the same has to be termed as in-violation of Article 14 of the Constitution of India, besides being contrary to the provisions contemplated under Article 14 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966. Copy of the order dated 26.9.2012 is annexed hereto and marked as **Annexure P/1**. Hence, this petition.

- (2) A DECLARATION THAT NO PROCEEDING ON THE SAME SUBJECT MATTER HAS BEEN PREVIOUSLY INSTITUTED IN ANY COURT, AUTHORITY OR TRIBUNAL. IF INSTITUTED, THE STATUS OR RESULT THEREOF, ALONG WITH COPY OF THE ORDER:

The petitioner declares that no proceeding on the same subject matter has been previously instituted in any Court, authority or Tribunal.

- (3) DETAILS OF REMEDIES EXHAUSTED :

In view of the provisions contained under Rule 22 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 the impugned order has been passed in the name of Hon'ble Governor, therefore, the present petition is being filed directly before this Hon'ble Court.

(4) DELAY, IF ANY, IN FILING THE PETITION AND EXPLANATION THEREFOR:

The petitioner has been dismissed from the services, though by an order dated 26.9.2012 but the fact remains that the entire enquiry was conducted behind the back of the petitioner by sending the document to place where petitioner never joined. The petitioner thereafter was informed in the year 2013 about his dismissal from services. The petitioner then asked for supply of documents under Right to Information Act which the respondents for the first time supplied vide letter No.2021 dated 22.5.2014. It is submitted that even otherwise the entire enquiry proceedings are vitiated in law being in contravention to the statutory provisions contained

under Rule 14 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 and therefore, the delay will not come in the way to challenge such proceedings which are void ab initio. Thereafter the petitioner took a legal advice and then he has filing the present petition. Thus, the delay in filing of the writ petition is based on bonafide consideration and therefore, the same deserves to be condoned.

(5) **FACTS OF THE CASE :**

The facts giving rise to the present petition are as under:

- 5.1 That, the petitioner was appointed as Asstt. Surgeon (Class-II) Gazetted Post in the year 2001. Copy of the appointment order of the petitioner is annexed hereto and marked as **Annexure P/2**.
- 5.2 That, later-on the petitioner was posted in Vidisha in the year 2005 and till February 2009 he was working in Vidisha. On 28.2.2009 the petitioner was transferred from Vidisha to be posted at Umariya.

Copy of such transfer order is annexed hereto and marked as Annexure P/3. Since the petitioner was not well and he was seriously ill and accordingly he could not comply with the transfer order, whereby he was posted to Umariya. To that effect the petitioner also informed the Civil Surgeon Umariya. Copy of the letter sent by the petitioner to Civil Surgeon Umariya is annexed hereto and marked as Annexure P/4.

- 5.3 That, on 9.5.2009 the petitioner was relieved for submission of his joining to Umariya in pursuant to the order of transfer dated 28.2.2009. Copy of the relieving order of the petitioner is annexed hereto and marked as Annexure P/5. The petitioner applied for cancellation of his transfer order due to various family and personal problem prevailing including ill health and accordingly the State Government considering the representation of the petitioner cancelled the order of transfer. Copy of the cancellation of transfer order is annexed hereto and marked as Annexure P/6. On 20.10.2009 the petitioner joined at Vidisha.

Copy of the joining order of the petitioner is annexed hereto and marked as Annexure P/7.

- 5.4 That, from the aforesaid facts it is clear that the petitioner never went to Umariya in compliance of the order of transfer dated 28.2.2009. However, the respondents issued charge-sheet dated 25.8.2009, copy of the same is annexed hereto and marked as Annexure P/8. The said charge-sheet was sent to Umariya specifically indicating that the petitioner is absent from duty with effect from 28.2.2009 the date he was transferred. Once the charge against the petitioner was that he has absent and was not complying with the order of transfer dated 28.2.2009 sending of the charge-sheet to Umariya specifically reflect the conduct of the respondents as to how and in what manner they wanted to conduct enquiry against the petitioner. The purpose which transpires from the aforesaid activities of the respondents in forwarding the charge-sheet to Umariya is clear that the respondents never wanted to serve the charge-

sheet on the petitioner at his official residence in Vidisha.

5.5 That, since the charge-sheet was sent by the respondents directly to Umariya where petitioner never joined the same was never served on the petitioner at any point of time.

5.6 That, thereafter the respondents made appointment of the enquiry officer of one Shri R.C. Saxena a retired Under Secretary of the Department to conduct an enquiry against the petitioner. Copy of such an appointment order of enquiry officer is annexed hereto and marked as Annexure P/9. His appointment order was absolutely contrary to Rule 14 (5) of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966. Moreover the appointment of the enquiry officer to retire a government servant is impermissible in law.

5.7 That, even otherwise the post of Asstt. Surgeon held by the petitioner was entitled to get salary in the revised scale of Rs.12000-16500/- whereas even the

working under Secretary is required to be placed in the Grade of Rs.10000-15200. Thus, the said person assuming that he was in service he should not have been appointed as enquiry officer of the petitioner because a person subordinate to the delinquent employee/officer cannot be appointed as enquiry officer. From that point of view also the appointment of the enquiry officer and all subsequent enquiry conducted against the petitioner vitiates in law.

5.8 That, the Government has also issued a circular wherein it has been categorically stated that enquiry against a Class II and Class I officer at least to be conducted by an officer not below the rank of Joint Director. Copy of such circular issued by the Government is annexed hereto and marked as ^{P.38} **Annexure P/10**. Thus, appointment of the enquiry officer of a retired person was in-violation of circular issued by the Government, and therefore, same is unsustainable in law.

5.9 That, moreover the said enquiry officer did not conduct any enquiry against the petitioner and even

though presenting officer report was not called. Thus, the enquiry was conducted behind the back of the petitioner without service of even charge-sheet on the petitioner and without notice to the petitioner and admittedly the petitioner rejoined on 20.10.2009 in Vidisha. Thus, in the facts and circumstances of the case the entire departmental enquiry conducted against the petitioner and enquiry report submitted by the retired enquiry officer is absolutely vitiated in law being violation of the provisions contemplated under Rule 14 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 governing the departmental enquiry against the Government Officer. The said enquiry officer submitted his enquiry report. Copy of such enquiry report is annexed hereto and marked as Annexure P/11. It is further clarified here that all the aforesaid documents i.e. charge-sheet, the enquiry report and other documents which have been enclosed along with this petition have been received by the petitioner under Right to Information Act and because the same was never supplied to the petitioner.

5.10 That, ultimately the respondents on consideration of the enquiry report submitted by the retired enquiry officer found that the petitioner required to be dismissed from the services and accordingly the order of dismissal from services Annexure P/1 has been passed, but more unfortunate part on the part of the respondent that order of dismissal even not served on the petitioner.

5.11 That, in the year 2013 when the petitioner came back from the ailment wanted to join the services and then he was informed that in the year 2012 his services stood terminated, the petitioner thereafter applied under Right to Information Act with the respondent-State. On the basis of such an application submitted by the petitioner under Right to Information Act the petitioner requested for supply of all the documents relating to departmental enquiry conducted against him. The respondents then ultimately supplied the documents to the petitioner vide order dated 22.5.2014. Copy of such letter is annexed hereto and marked as Annexure P/12.

5.12 That, thereafter the matter was forwarded for taking approval and consent of the Public Service Commission that the petitioner was holding the Gazetted Class II post. The Public Service Commission without informing to the petitioner and without notice to him has granted the approval to the respondents for dismissing the services of the petitioner. Thus, the said act on the part of the Public Service Commission is again illegal. Even otherwise for a single charge levelled against the petitioner it was alleged that the petitioner while posted in Vidisha was transferred vide order dated 28.7.2009 to be posted in District Hospital Umariya under administrative exigencies, but however, the petitioner did not submit his joining report in Umariya. Once the order of cancellation of transfer was passed by the respondents which was well within their knowledge and in pursuant thereof the petitioner joined on 20.10.2009 the said charge did not exist and in such circumstances termination of the petitioner vide order dated 26.9.2012 is absolutely illegal contrary to law because the charge was only that the petitioner

did not take over the charge in Umariya in pursuant to order of transfer dated 28.2.2009. In such circumstances the entire proceedings initiated against the petitioner behind the back of the petitioner which is contrary to law.

5.13 That, during pendency of the departmental enquiry the petitioner was also promoted. Copy of the promotion order of the petitioner is annexed hereto and marked as **Annexure P/13**. Thereafter again the petitioner joined on 15.6.2012.

5.14 That, for the foregoing reasons the present petition is being filed by the petitioner inter-alia on the following grounds:

(6) GROUNDS URGED :

A. That, the impugned order of dismissal from services dated 26.9.2012 Annexure P/1 is without authority of law in as much as the enquiry was conducted against the petitioner in absolutely arbitrary manner de hors the provisions contained under Rule 14 of M.P.

Civil Services (Classification, Control and Appeal) Rules, 1966 and therefore, the order dated 26.9.2012 Annexure P/1 is liable to be set aside.

- B. That, the appointment of the enquiry officer and whole enquiry proceedings conducted by him is contrary to law because a subordinate person moreso a retired person cannot be permitted to conduct enquiry against the superior authority. In such circumstances the entire enquiry proceedings vitiates and subsequent order of dismissal is therefore vitiates in law and is unsustainable.
- C. That, even otherwise the charge-sheet was sent to Umariya knowing fully aware that the petitioner never joined in Umariya. Moreover the transfer order of Umariya of petitioner stood cancelled and he rejoined in Vidisha. Charge against the petitioner was that he did not submit his joining at Umariya and therefore, in such circumstances sending of document to Umariya are absolutely arbitrary, without application of mind with an intention to defeat the petitioner to defend him in the pending

departmental enquiry which is unsustainable being in-violation of Article 14 of the Constitution of India.

- D. That, the enquiry officer did not conduct the enquiry by service of notice to the petitioner who was admittedly in Vidisha on his official address. Thus, no document was served on the petitioner on his official address at Vidisha. In such circumstances the entire conduct of enquiry is arbitrary, unconstitutional de hors the provisions of contemplated under Article 14 of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966.
- E. That, the enquiry officer did not receive the report from the presenting officer and therefore also the enquiry cannot said to be a valid enquiry in law.
- F. That, the Public Service Commission since did not inform the petitioner and did not issue the notice to the petitioner about the proposed dismissal and consent granted by him. In such circumstances also the impugned action on the part of the respondents in dismissing the services of the petitioner is vitiates.

- G. That, other grounds shall be urged during the course of arguments.

(7) RELIEF PRAYED FOR :

In view of the facts mentioned in para*6 above the petitioner prays that a writ of mandamus or any other suitable writ, direction may kindly be issued and following relief may be granted to the petitioner.

- (i) That, the present petition filed by the petitioner may kindly be allowed;
- (ii) That, the impugned order dated 26.9.2012 Annexure P/1 issued by the respondents may kindly be directed to be set aside and the petitioner may kindly be directed to be reinstated in service with all consequential benefits with arrears of salary.
- (iii) That, any other just, suitable and proper relief, which this Hon'ble Court deems fit, may also kindly be granted to the petitioner. Costs be also awarded in favour of the petitioner.

(8) INTERIM ORDER/WRIT, IF PRAYED FOR .

The petitioner prays that during pendency of the present petition and looking towards the facts and circumstances of the case the effect and operation of the impugned order Annexure P/1 dated 26.9.2012 passed by the respondents may kindly be directed to be stayed in the interest of justice.

(9) DOCUMENTS RELIED ON BUT NOT IN POSSESSION OF THE PETITIONER:

Petitioner declare that he has not relied upon any document not in possession of the petitioner.

(10) CAVEAT :

That, no notice of lodging a caveat by the opposite party is received.

DECLARATION (Under Rule 25 Chapter X)

The copies as required by Rule 25 of Chapter X of the High Court of Madhya Pradesh Rules, 2008, have been served upon _____ Advocate General _____ (the person upon whom the copies have been served) at _____ (time) on _____ (date) in _____ Gwalior (place).

Date:-
Gwalior

Humble petitioner
Through Counsel

(M.P.S.Raghuvanshi)

(D.S. Raghuvanshi)
Advocates

IN THE HIGH COURT OF MADHYA PRADESH**BENCH AT GWALIOR**

W.P. NO. /2015

PETITIONER : Dr. Chandra Kant Chaurasiya

Versus

RESPONDENTS : State of Madhya Pradesh and others

AFFIDAVIT

I, Dr. Chandra Kant Chaurasiya, S/o Late Shri Harishankar Chaurasiya, Aged 43 years, Occupation: Asstt. Surgeon (Since terminated), R/o 55, Krishna Colony, Vidisha (M.P.) do hereby solemnly affirm and state on oath as under:

1. I state on oath that I am petitioner in the present petition, which has been drafted by my counsel under my instructions and I have fully understood the contents thereof. I am also fully accompanied with the facts of the case. Hence competent to swear this affidavit.
2. I state on oath that the writ petition drafted by my counsel, has been read over to me and has been translated in Hindi by my counsel to me and I am fully understood contents thereof.
3. I state on oath that the facts stated in para 1 to 5 & 7 to 10 of the writ petition are correct to my personal knowledge.
4. The contents of para 6 of the writ petition are based on legal advise tendered by my counsel which I believe to be true and correct.
5. The documents as contained in Annexures annexed with the writ petition are photocopies of the originals which I certify to be true photocopies of the original documents.

Date :
Gwalior

Chandra Kant Chaurasiya

AFFIRMATION

I, the above named deponent do hereby verify the contents of this affidavit in para 1 to 3 and 5 are true and correct to my personal knowledge. The contents of para 4 are based on legal advice tendered by my counsel which I believe to be true and correct, no part of affidavit has been falsely stated.

Date :
Gwalior

(K. D. Sharma)
Signature of Deponent

(K. D. Sharma)

IN THE HIGH COURT OF MADHYA PRADESH**BENCH AT GWALIOR**

W.P. NO. /2015
 PETITIONER : Dr. Chandra Kant Chaurasiya

Versus

RESPONDENTS : State of Madhya Pradesh and
 others

LIST OF DOCUMENTS

S.No.	Description of Document	Date of Document	Original/Copy Number of Pages
1.	Copy of order dt.26.9.2012		P/1
2.	Copy of appointment order		P/2
3.	Copy of order		P/3
4.	Copy of letter		P/4
5.	Copy of relieving order		P/5
6.	Copy of order		P/6
7.	Copy of order		P/7
8.	Copy of charge-sheet		P/8
9.	Copy of order		P/9
10.	Copy of circular		P/10
11.	Copy of enquiry report		P/11
12.	Copy of letter		P/12
13.	Copy of order		P/13

Date:-
 Gwalior

Humble petitioner
 Through Counsel

(M.P.S.Raghuvanshi)

(D.S. Raghuvanshi)
 Advocates

संचालनालय स्वास्थ्य सेवायें
मध्यप्रदेश

क्रमांक/4/लीगल/ग्वा./2016/पंजी - 75/403 भोपाल, दिनांक: 10/03/2016

आदेश

सिविल प्रक्रिया संहिता (1908) अधिनियम संख्या -5 के आदेश के सल्टाईस के नियम 1 तथा 2 के अधीन शक्तियों को प्रयोग में करते हुय उप संचालक (शिकायत) स्थानीय कार्यालय, को उच्च न्यायालय ग्वालियर में दायर याचिका डब्ल्यू0पी0 6685/2015 डॉ. चन्द्रकांत चौरसिया, मेडिकल आफिसर, विदिशा, विरुद्ध म.प्र. शासन एवं अन्य में म.प्र.राज्य तथा उसकी ओर से प्रभारी अधिकारी के रूप में अभिकथनों पर हस्ताक्षर करने और उन्हें सत्यापित करने के लिये तथा कार्य करने के लिये तथा कार्य करने आवेदन करने उपस्थित होने के लिए नियुक्त करते हैं। प्रभारी अधिकारी को यह आदेश दिया जाता है कि म.प्र.विधि और विधायी कार्य विभाग, नियमावली में वर्णित कर्तव्यों तथा उत्तरदायित्वों के अतिरिक्त वह अपनी नियुक्ति के तुरन्त पश्चात् अन्य शर्तों के साथ ऐसी रीति में जिसके ब्यूरो नीचे दिये हैं, निम्न लिखित कार्य करेगा :-


1. प्रभारी अधिकारी, मामले के तथ्यों के बारे में तुरन्त ऐसी जाँच करेगा जैसे कि आवश्यक हो और याचिका में उठाए गए समस्त बिन्दुओं का पैरा अनुसार उत्तर देते हुए और ऐसी अतिरिक्त जानकारी देते हुए, और ऐसी अतिरिक्त जानकारी देते हुए, जिससे कि मामले के संदर्भ में महाधिवक्ता/शासकीय अभिवक्ता को सहायता पहुचाने को संभालना है रिपोर्ट तैयार करेगा। यदि किसी प्रक्रिया पर विधि विभाग से परामर्श लिया गया था तो उस विभाग को राय भी रिपोर्ट में विनिष्ट रूप से निर्दिष्ट की जाए।
2. समस्त सुसंगत फाईल, दस्तावेज, नियम, अधिसूचना तथा आदेश आदि एकत्र करेगा।
3. वादपत्र/याचिका में उठाए गए समस्त बिन्दुओं को पैरा अनुसार उत्तर देते हुए जिससे कि शासकीय अधिवक्ता को सहायता पहुचाने की सम्भावना है, ऐसी अतिरिक्त जानकारी देते हुए एक रिपोर्ट तैयार करेगा।
4. उक्त रिपोर्ट तथा सामग्री के साथ शासकीय अधिवक्ता के संपर्क करेगा।
5. शासकीय अधिवक्ता की सहायता से लिखित कथन/उत्तर तैयार करायेगा।
6. प्रभारी अधिकारी निम्नलिखित कागज पत्र भेजेगा :-
 - (क) वादपत्र की एक प्रति के साथ सरकार की एक रिपोर्ट।
 - (ख) प्रस्तावित लिखित कथन का एक प्रारूप
 - (ग) उन सभी दस्तावेजों की एक सूची जिन्हें साक्ष्य स्वरूप फाईल करना प्रस्तावित है और जिनको प्रस्तुत रिपोर्ट में अपेक्षा की गई।
 - (घ) मामले के विशुद्धिकरण के लिए आवश्यक कागज पत्रों का प्रतियों जिसमें वाद सुनवाई की तारिख भी शामिल होनी चाहिए।

क्रमशः (2)

7. मामले की तैयारी और संचालन करने में शासकीय अधिवक्ता का सहयोग करना और मामले, उसके प्रक्रम और प्रगति में नियत किए गए कर्तव्यों से स्वयं को सदैव ही अवगत करना।
8. जब भी कोई आदेश/निर्णय विशिष्टतया मध्य प्रदेश राज्य के विरुद्ध पारित किया जाता है जब विधि विभाग को सूचित करना तथा उसकी प्रमाणित प्रति प्राप्त करने के लिए उसी दिन या आगामी कार्य दिवस को आवेदन करना।
9. अपनी रिपोर्ट के साथ आदेश/निर्णय की प्रमाणित प्रति तथा शासकीय अधिवक्ता की राय अगली कार्यवाही किए जाने के लिए विभाग को भेजेंगे।
10. यह देखना कि आवेदन करने में तथा प्रमाणित प्रतियाँ प्राप्त करने रिपोर्ट बनाने राय प्राप्त करने और उनकी सूचना देने में समय नष्ट नहीं हो।
11. जैसे हो उसके अपना स्थानांतरित आदेश प्राप्त होता है यह अर्धशासकीय पत्र के माध्यम से तत्काल जानकारी देगा। यह वर्तमान पद का भार सौंपे देने के पश्चात भी तब तक प्रभारी अधिकारी बना रहेगा, जब तक कि अन्य प्रभारी अधिकारी नियुक्त नहीं कर दिया जाए।
12. प्रभारी अधिकारी, मामले तैयार करने में शासकीय अधिवक्ता की हर समय सहयोग देगा तथा इस बात के लिए उत्तरदायी होगा कि कोई महत्वपूर्ण तथ्य को दस्तावेज अप्रति/छुपी हुई ना रह जाये।
13. प्रभारी अधिकारी कार्यदि लोग अभियोजन मुकर्रर है तो जैसे ही वाद का विनिश्चय होता,परिवत्र की रिपोर्ट विभागाध्यक्ष के माध्यम से सरकार करेगा। निर्णय की एक प्रति भी प्राप्त की जाए और रिपोर्ट के साथ भेजी जाए।
14. प्रभारी अधिकारी यदि लोक अभियोजन मुकर्रर है तो यह बात के लिए उत्तरदायी होगा कि उन मामलें में जहाँ किसी वाद के कम में पारित किए गए किसी अतिरिम आदेश का पुनरीक्षण अप्रेषित है, समय पर कार्यवाही की गई है। अतः एवं वह इस आदेश की प्रति जैसे ही वह पारित किए जाए, विभागाध्यक्ष के माध्यम से अपनी अनुशंसा के साथ सरकार (प्रशासकीय) विभाग को प्रेषित करे।

मध्य प्रदेश के राज्यपाल के नाम से तथा

आदेशानुसार


कृते / सचिव

मध्य प्रदेश शासन

लोक स्वास्थ्य एवं परिवार कल्याण विभाग

क्रमशः (3)

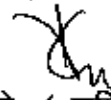
क्रमांक/4/लीगल/ग्वा./2016/पंजी-75/404 भोपाल, दिनांक: 10/03/2016

प्रतिलिपि:- सूचनार्थ एवं आवश्यक कार्यवाही हेतु :-

1- महाधिवक्ता कार्यालय, उच्च न्यायालय ग्वालियर, (म.प्र.)

2- संभागीय संयुक्त संचालक, स्वास्थ्य सेवायें, ग्वालियर, सम्भाग ग्वालियर ।

3- प्रमारी अधिकारी- उप संचालक (शिकायत) स्थानीय कार्यालय, की और शासकीय अधिवक्ता से संपर्क करने, उपस्थिति प्रकरण पत्र प्रगति रिपोर्ट प्राप्त करने तथा अपनी प्रत्येक भेट पर शासकीय अधिवक्ता से आगे की कार्यवाही के लिए सलाह करने और मामले में अपनी प्रगति रिपोर्ट के साथ विभागाध्यक्ष को भेजने हेतु अग्रेषित। मामले के प्रगति की प्रति विभाग के साथ साथ विधि विभाग को सदैव ही भेजने चाहिए । आवेदन प्रति इस विभाग को आवश्यक रूप से भेजी जाये । मामले का सुनवाई दिनांक 13/04/2016 को उच्च न्यायालय ग्वालियर में नियत है, थी।


कृते / सचिव

मध्य प्रदेश शासन
लोक स्वास्थ्य एवं परिवार कल्याण विभाग

