



Sakshi Singhal
Associate

MP HIGH COURT ON RIGHTS IN CONTRACT EMPLOYMENT

A. Introduction

The High Court of Madhya Pradesh (“**HC**”) in the August 2023 *Sudbeer Kumar Sharma* case,¹ reiterated that contract of personal service is not specifically enforceable in case it lacks any aspect of statutory governance.

B. Brief Facts

1. Sudheer Kumar Sharma (“**Sharma**”) was appointed as ‘Samooch Prerak’ with the Panchayat and Rural Development Department (“**PRDD**”) in Rajasthan in 2015 for one year.
2. He was initially appointed to work at Rewa but was transferred to Bhind in 2020.
3. Sharma contested the transfer order before the HC and was successful in getting an interim stay. However, it dismissed his petition and asked PRDD to consider his representation.
4. PRDD rejected his representation. Aggrieved by this, he again approached the HC but was denied relief.
5. Sharma attempted to re-join PRDD at Bhind based on the original transfer order but that was declined.
6. He again petitioned before the HC seeking direction to PRDD to reinstate him in service with all consequential benefits such as arrears of salary, continuity in service, and future career growth (“**Reinstatement**”).
7. The HC directed PRDD to accept his joining if there was no legal impediment.
8. PRDD ordered that Sharma’s contractual appointment had already ended in terms of the contract due to unauthorized absence exceeding one month (“**Final Order**”).
9. Sharma approached the HC challenging the Final Order and sought Reinstatement.

C. HC’s Judgement and Reasoning

The HC dismissed the petition and:

1. Held that PRDD did not commit any error while passing the Final Order as it had rightly concluded that Sharma was unauthorizedly absent for more than one month, and therefore his services stood automatically terminated;²
2. Observed that there was failure on Sharma’s part to provide reasons for his period of absence;³ and

¹*Sudbeer Kumar Sharma. v. State of Madhya Pradesh, through the Principal Secretary Panchayat and Rural Development Department and Others*, 2023 SCC OnLine MP 3035.

² Paragraphs 9 and 10 of the Judgement.

³ Paragraph 10 of the Judgement.

3. Relied on the *SBI* case⁴ of the Supreme Court and its own judgement in the *Purushottam Suryabanshi* case⁵ and reiterated that: “*when the relationship of master and servant is purely contractual, the contract of service is not enforceable, and the employment is governed purely by contract and if there is no element of statutory governance, the contract of personal service will not be specifically enforceable*” and that contractual appointees have limited rights to ask for Reinstatement.⁶

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⁴ *State Bank of India v. S.M. Goyal*, (2008) 8 SCC 92.

⁵ *Purushottam Suryabanshi v. The State of Madhya Pradesh*, WP No. 29/2023.

⁶ Paragraphs 10 and 11 of the Judgement.