IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

WRIT PETITION No. 6360 of 2026

CNR No.: MPHC030045412026

KANAHIYALAL SHARMA

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Arun Dudawat – counsel for petitioner.
Shri B.M. Patel – Government Advocate for respondent/State.

Reserved on 29.10.2026

Pronouced on 23.11.2026

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

> "(i) Issuing a writ of certiorari or any other suitable writ or order or Direction for quashing the impugned order dated- 31.10.2019 (Annexure-P/1) with further direction to the respondent no. 2 to pay full and complete salary for the suspended period i.e. 15.07.2015 to 31.10.2019 with further

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direction not to interfere in the working of the petitioner.

(ii) Passing any other order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

ii) Cost of the petition may also be awarded to the petitioner."

2. Learned counsel for petitioner submits that the petitioner is working as a Panchayat Secretary and is presently posted at Gram Panchayat Dheergarh, Tehsil Lateri, District Vidisha (M.P.). He was suspended vide order dated 15.07.2015 on allegations of financial irregularities in Panchayat work. Thereafter, a departmental enquiry was conducted against him. The Enquiry Officer submitted the enquiry report dated 01.10.2019. In the said report, charges No. 1 to 4 were found not proved, while charge No. 5 was found partly proved and recovery of Rs.72,900/- was proposed against the petitioner. Learned counsel further submits that vide impugned order dated 31.10.2019, respondent No. 2 imposed the minor penalty of withholding three increments with cumulative effect. However, while passing the said order, respondent No. 2 also directed that the petitioner would be entitled only to subsistence allowance for the suspension period from 15.07.2015 to 31.10.2019 and would not be paid full salary and allowances for the said period. It is contended that withholding three increments with cumulative effect is a minor penalty under Rule 5(a) of the M.P. Panchayat Service (Discipline and Appeal) Rules, 1999. Therefore, the denial of full salary for the entire suspension period is illegal and arbitrary, particularly when charges No. 1 to 4 were not proved and charge No. 5 was only partly proved. Learned

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counsel submits that respondent No. 2 has not recorded any proper reasons for denying full salary for the suspension period. It is further submitted that the impugned action is contrary to the law laid down by this Court in ***Y.S. Sachan v. State of M.P., 2003 (4) MPLJ 219 and Haridas v. State of M.P., 2019 (3) MPLJ 309.*** It is further submitted that the petitioner has already submitted representations to the respondents but no action has been taken on them. On these grounds, learned counsel for the petitioner prays that the impugned order dated 31.10.2019 be quashed to the extent it denies full salary and allowances for the suspension period from 15.07.2015 to 31.10.2019 and that the respondents be directed to pay the remaining salary and allowances due to the petitioner.

3. Learned counsel for the respondents/State opposes the petition and submits that the impugned order dated 31.10.2019 passed by respondent No. 2 is just and proper and does not call for any interference by this Court. It is submitted that the petitioner was suspended on 15.07.2015 on account of financial irregularities committed in Panchayat work. Thereafter, departmental proceedings were initiated against him and the enquiry was conducted in accordance with the applicable rules. Due to the lapses found against the petitioner, a recovery of Rs.72,900/- was imposed upon him. It is further submitted that the petitioner is not automatically entitled to full salary for the suspension period merely because a minor penalty of withholding three increments with cumulative effect was imposed. Considering the petitioner's conduct and the allegations against him, the disciplinary authority rightly decided the issue relating to payment for the suspension period. It is contended that there is no restriction on the powers of the disciplinary authority in this regard and that the petitioner's claim for full salary

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is without any sufficient legal basis. Learned counsel also submits that the judgments relied upon by the petitioner, namely Y***.S. Sachan (supra), Shailendra (supra) and Haridas (supra)***, are distinguishable on facts and do not apply to the present case. The respondents maintain that the impugned order was passed after considering the allegations and the lapses committed by the petitioner. It is, therefore, submitted that the petitioner is not entitled to the relief claimed, including full salary and allowances for the suspension period from 15.07.2015 to 31.10.2019 or the interim relief sought in the petition; therefore, he prays to dismiss the petition.

4. Heard the learned counsel for parties and perused the record.

5. The controversy involved in the present petition is whether, in view of the express statutory classification of withholding of increments with cumulative effect as a minor penalty under the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999, the disciplinary authority was justified in denying the petitioner full salary for the entire period of suspension without recording any independent and cogent reasons.

6. Before proceeding further, it would be appropriate to refer to Rule 5 of the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999, which provides for the penalties that may be imposed upon a member of the Panchayat Service.

7. Rule 5(a)(ii) specifically provides that withholding of increments, stagnation allowances or promotions, with or without cumulative effect, shall constitute a minor penalty. The relevant provision reads as under:-

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> *"5. Penalties.— The following penalties may, for good and sufficient reasons, and as hereinafter provided be imposed on a member of the Panchayat Service, namely:-*
>
> ***(a) Minor Penalties—***
>
> *(i) Censure;*
>
> *(ii) Withholding of increments, stagnation allowances or promotions,* ***with or without*** *cumulative effect;*
>
> *(iii) Recovery from pay of the whole or part of any pecuniary loss caused to the Panchayat or the State Government by negligence or breach of orders."*

8. The aforesaid provision leaves no ambiguity regarding the classification of the penalty imposed upon the petitioner. The Legislature, in its wisdom, has expressly included withholding of increments with cumulative effect within the category of minor penalties.

9. It is a settled principle of statutory interpretation that where the language of a statutory provision is clear, plain and unambiguous, the Court is required to give effect to the provision as it stands. Neither the Court nor the administrative authority can add words to the statute or adopt an interpretation contrary to the express legislative mandate. In ***B. Premanand and Others v. Mohan Koikal and Others, (2011) 4 SCC 266***, the Hon'ble Supreme Court reiterated that the literal rule of interpretation is the foremost principle of statutory construction and that where the statutory language is clear and unambiguous, it must be given its ordinary meaning. Departure from the literal rule is permissible only in exceptional circumstances.

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10. Similarly, in ***Union of India v. Priyankan Sharan, (2008) 9 SCC 586***, the Hon'ble Supreme Court emphasized that the Court cannot read anything into a statutory provision which is plain and unambiguous, as the language employed in the statute is the determinative factor of legislative intent. The principle is also reflected in the decision of the Hon'ble Supreme Court in ***Hiralal Rattanlal v. State of Uttar Pradesh, (1973) 1 SCC 216***, wherein it was held that where the statutory language is clear and explicit, it must be given effect to.

11. Applying the aforesaid principles to the facts of the present case, it is evident that Rule 5(a)(ii) expressly classifies withholding of increments with cumulative effect as a minor penalty.

12. The disciplinary authority, while imposing the aforesaid penalty, cannot adopt an interpretation which would, in effect, elevate the penalty to the category of a major penalty or attach consequences which are not supported by the statutory scheme.

13. It is a fundamental principle that an administrative authority derives its powers from the statute and is bound to exercise such powers within the limits prescribed therein. The authority cannot act contrary to the statutory classification merely on the basis of its subjective assessment of the seriousness of the allegations.The expression “with cumulative effect” has been specifically incorporated by the rule-making authority within Rule 5(a)(ii). Therefore, the fact that the increments have been withheld with cumulative effect does not, by itself, alter the statutory nature of the penalty.

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14. This Court is conscious of the fact that classification of a penalty as minor does not, by itself, confer an automatic right upon an employee to receive full salary for the suspension period. The determination of pay and allowances for the period of suspension is required to be made in accordance with the applicable statutory rules. However, the said determination cannot be arbitrary, mechanical or founded upon an interpretation which is contrary to the express statutory classification of the penalty.

15. In the present case, charges No.1 to 4 were found not proved by the Enquiry Officer, whereas charge No.5 was found only partly proved. Ultimately, the penalty imposed upon the petitioner was withholding of three increments with cumulative effect, which is expressly a minor penalty under Rule 5(a)(ii) of the Rules of 1999.

16. The impugned order, insofar as it denies the petitioner full salary for the entire suspension period, does not disclose any independent and cogent reasoning demonstrating why the petitioner should be deprived of his salary for the period in question, particularly in the light of the findings recorded in the departmental enquiry and the nature of the penalty ultimately imposed.

17. In ***Y.S. Sachan (supra) and Shailendra (supra),*** this Court considered a situation wherein the petitioner therein was subjected to a minor penalty of withholding of one increment without cumulative effect, while being denied full salary for the suspension period. This Court, taking into consideration the nature of the penalty imposed, directed payment of full salary for the suspension period.

18. The Division Bench of this Court in the case of ***State of M.P. and another***

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Vs. Shailendra reported in ILR [2011] M.P. 2315 has held as under:

> "7. The learned Dy. Govt. Advocate could not point out as to whether for not granting the full salary of the said period on the ground that during the period of suspension the respondent did not report the Headquarter any show cause notice or opportunity of hearing was ever given to the respondent in the circumstances, in the absence of any such show cause notice or opportunity of hearing, in our considered view the benefit of the salary of the said period could not have been denied to the respondent in view of the circular. Admittedly, the respondent was charge-sheeted for major misconduct but the minor penalty was imposed upon him, therefore, in view of the circular dated 13.01.2005 he was entitled for full salary of the entire period of suspension. In the circumstances, in our view the order passed by the learned Single Judge needs no interference."

19. The aforesaid decision supports the proposition that the question of payment of salary for the suspension period cannot be decided in isolation from the findings of the departmental enquiry and the nature of the penalty ultimately imposed. The petitioner has also relied upon ***Haridas (supra).***

20. The contention of the respondents that the disciplinary authority possesses unrestricted discretion to deny full salary for the suspension period cannot be accepted in its absolute form. The exercise of discretion by a statutory authority is necessarily subject to the statutory framework, the principles of reasonableness and the requirement of recording appropriate reasons where an adverse determination is made. An interpretation which permits the authority to disregard the express classification of a penalty under Rule 5(a)(ii) would be contrary to the settled principles of statutory interpretation and would amount to permitting the administrative authority to travel beyond the limits prescribed by the Rules.

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The Court cannot permit the statutory classification to be rendered ineffective by adopting a contrary administrative interpretation.

21. The question as to the applicability of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred to as the "M.P. CCA Rules, 1966") to the petitioner also requires consideration. The petitioner, being a Gram Panchayat Secretary, is governed by the special statutory framework prescribed under the Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 and the rules framed thereunder, particularly the Madhya Pradesh Panchayat Service (Gram Panchayat Secretary Recruitment and Conditions of Service) Rules, 2011 and the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999, as applicable. The principle governing the applicability of special service regulations vis-à-vis general service rules has been considered by the Division Bench of this Court in Arun Prakash Yadav v. State of Madhya Pradesh and Others, W.P. No.6206/2011 (S), decided on 28.06.2013, reported in 2013 (3) MPLJ 508. In the aforesaid decision, the Division Bench held that where a special set of regulations governs the disciplinary proceedings against an employee, the provisions of the M.P. CCA Rules, 1966 stand excluded to the extent the special regulations specifically govern the subject. The underlying reasoning is that the authority exercising disciplinary powers must derive its jurisdiction from the statutory provisions applicable to the concerned employee and cannot import the provisions of a general rule in derogation of the special statutory framework. The aforesaid principle is further supported by the rule of statutory interpretation generalia specialibus non derogant, which provides that special provisions prevail over

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general provisions. Applying the aforesaid principle to the present case, the disciplinary action against the petitioner, including the classification of the penalty imposed upon him and the determination of his pay and allowances for the suspension period, must be examined with reference to the specific Panchayat Service Rules applicable to him. The respondents cannot rely upon the M.P. CCA Rules, 1966 as an independent source of authority to impose a consequence which is not supported by the special statutory rules. It is, therefore, the express language of the applicable Panchayat Service Rules which shall govern the controversy, and the Court is bound to give effect to the statutory classification of the penalty prescribed therein.

22. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned order dated 31.10.2019, insofar as it denies full salary and allowances to the petitioner for the period of suspension from 15.07.2015 to 31.10.2019, cannot be sustained.

23. Accordingly, the petition is ***allowed and disposed of*** with following direction:

> (i) The impugned order dated 31.10.2019 (Annexure-P/1) is hereby quashed to the extent it denies full salary and allowances to the petitioner for the period of suspension from 15.07.2015 to 31.10.2019;
>
> (ii) The respondents are directed to calculate and pay the balance salary and allowances admissible to the petitioner for the aforesaid period, after adjusting the subsistence allowance already paid, within

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a period of three months along with six per interest per annum from the date of entitlement till realization failing which the entire amount shall carry interest at the rate of 12% per annum from the date of entitlement till realization.

(iii) It is clarified that the penalty of withholding three increments with cumulative effect imposed upon the petitioner shall remain undisturbed.

(Anand Singh Bahrawat)
Judge

Ahmad

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