
(2015) 01 MP CK 0036
In the Madhya Pradesh High Court
Case No : Writ Petition 8461/2014

Amrita Choudhary

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 05-01-2015

Acts Referred:

Citation : (2015) 01 MP CK 0036

Hon'ble Judges : K.K. Trivedi, J.

Bench : Single Bench

Advocate : P.R. Bhawe, Learned Senior Counsel and assisted by Arpan Shrivastava, for the Appellant; Rahul Jain, Learned Government Advocate, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

K.K. Trivedi. J.—The grievance of the petitioner is against the order dated 15.5.2014 and consequential order dated 29.5.2014 and the order of removal from service dated 4.6.2014 (Annexure P/11, P/12 and P/13 respectively).

2. It is the case of the petitioner that she was appointed on contract basis on the post of Task Manager in the year 2007 at Jila Panchayat, Seoni after due selection under the Mid Day Meal Scheme introduced by the State Government. The services of the petitioner were found satisfactory and, therefore, the period of contract of the petitioner was extended continuously. The last extension was to end in the year 2014. However, a show cause notice was issued to the petitioner in respect of certain irregularities and though no financial irregularities were alleged against the petitioner, despite filing of the reply to the said show cause notice, the contract period of the petitioner was not extended. The Chief Executive Officer passed the first order on 15th May, 2014 taking away the work assigned to the petitioner and handing it over to someone else. The proposal made for extension of contract appointment of the petitioner was not properly dealt with. On the other hand, on the lame excuses that after giving a show cause notice since a major misconduct of the petitioner was found proved, the

recommendations were made not to extend the period of contract appointment of petitioner after 1.4.2014. As a consequence of passing of such order, the petitioner is said to be terminated from service vide order dated 4.6.2014.

3. It is the case of the petitioner that she was not responsible for any such misconduct, as alleged. In fact the job assigned to the petitioner was to verify the facts relating to utilization of the funds made available, submit the information in that respect and if approval was granted by the competent authority, to forward the same for payment to the concerned. It is contended that the proposal in that respect was made, which in fact was approved by the Chief Executive Officer, Jila Panchayat and then only the amount was disbursed. There was no occasion for the petitioner to make any interpolation in the signatures etc. Further the signatures on the sanction orders were not disputed. On the other hand, it was said that while endorsing the said orders to the concerned, signatures of the Chief Executive Officer of Jila Panchayat were scanned. That being so, there was no occasion to hold that a grave misconduct involving financial irregularities was committed by the petitioner on account of which her contract appointment was not to be extended. It is the case of the petitioner that in case there was any such allegation, in terms of the law laid down by this Court a detailed enquiry was required to be conducted and only if the misconduct was found proved after affording full opportunity of defence to the petitioner, such an action could have been taken against the petitioner. Malafides are also alleged in exercise of powers by the authorities alleging that only because the Chief Executive Officer was prejudiced, the charge of the post was taken from the petitioner and was delivered to someone else. In view of this, the main assail is to the order of refusing to grant extension of contract appointment and termination of the contract appointment.

4. By filing return, the respondents have very categorically contended that the allegations were made with respect to the improper acts of the petitioner especially when it was found that the signatures of the Chief Executive Officer of the Jila Panchayat were scanned for the purpose of using the same in other documents. It is contended that there were serious financial irregularities and, therefore, ultimately a decision was taken to discontinue the petitioner from service by not granting extension to her contract appointment. The reports in respect of the act of the petitioner were sent, which were considered by the authorities and since there was no satisfactory explanation given by the petitioner, ultimately decision was taken, as a consequence, the orders impugned have been issued. It is thus contended that there was no irregularity committed by the respondents in conducting enquiry against the petitioner and as such interference in the orders impugned is not called for.

5. The respondent No. 6 is made a party by name as malafides have been alleged against her. A separate return is filed by the respondent No. 6, adopting the return filed by the respondents/State. Nothing much is said except that the respondent No. 6 would file a detailed reply, if and when directed by this Court.

6. On the aforesaid premises, first of all the allegations of misconduct are to be seen and it has to be examined whether petitioner was guilty of any such serious misconduct on account of which her contract appointment was not extended. A perusal of the show cause notice issued to the petitioner will reveal that against the petitioner and two more persons allegations were made jointly that in the inspection of records of Mid Day Meal in some of the files it was found that the signatures of the Chief Executive Officer were scanned and used. It was alleged that using of scanned signatures is a financial irregularities. The signatures were scanned and used, for the purpose of obtaining sanction to draw the funds and that there was any sanction for disbursement of amount on the basis of such scanned signatures is not the allegation either embodies in the show cause notice or in the orders passed. It is the case of the petitioner that signatures on the appropriate place granting sanction were not said to be scanned signature nor it is alleged that those signatures were not that of the competent authority. The signatures are said to be scanned at the bottom of the order where the endorsement is made to some of the authorities like Collector, Assistant Commissioner, Chief Executive Officer of Janpad Panchayat, Block Resources Coordinators, Branch Manager of the Bank and the Account Section of the Jila Panchayat. Thus, if the sanction was already granted, amount was obtained only on the strength of such sanction, how could it be alleged that there was financial irregularity? These aspects are not explained anywhere either in the order passed against the petitioner or in the return filed by the respondents. It is not even in the report submitted to the higher authorities that any loss was caused to the public exchequer because of the use of scanned signatures. Even in the report not a single word is said that sanction orders were not signed by the concerned Chief Executive Officer.

7. This Court time and again has come to the conclusion that even a contract appointee is not to be terminated, discontinued from service by not extending the contract period on such allegations, without conducting a detailed enquiry. There is nothing on record to suggest that the petitioner was the only person who has used scanned signatures of the Chief Executive Officer in the sanction orders, that too while endorsing the said orders. The respondent No. 6 in her report has categorically admitted this position that the original order of sanction was signed by her, but only the endorsement part of that order was already containing the scanned signatures of the said Chief Executive Officer. If that is the situation, unless there is conclusive proof of such grave misconduct of the petitioner, no recommendation was to be made for her discontinuance from the contract appointment by not extending the period of contract. Such an act of the respondents would squarely be violative of the rules of natural justice as there was no specific charge of misconduct against the petitioner to this effect nor there was any proof of such a misconduct.

8. In case of *Rahul Tripathi Vs. Rajeev Gandhi Shiksha Mission, Bhopal and others*, this Court while dealing with such a situation has categorically held that even in the case of contract appointment such an order of discontinuance of

contract appointment should not be issued branding a person with allegation of misconduct. Though it was necessary on the part of the respondents to explain such facts especially when on the report of respondent No. 6 the contract appointment of petitioner was not extended, but such an aspect is not dealt with properly in the return filed by the respondents. Why a show cause notice only was issued to the petitioner and why not a detailed enquiry was conducted, as has been held in the case of Rahul Tripathi (supra) by this Court, is not explained. That being so, the action taken by the respondents cannot be countenance.

9. Prima-facie, order dated 15th May 2014 was also issued only because of the aforesaid alleged misconduct of the petitioner, by the very Chief Executive Officer, who has issued the show cause notice to the petitioner. Virtually the petitioner was left without any responsibility or work and that was as good as termination of the petitioner. The recommendations made by the respondent No. 6 were not to be accepted as a whole in view of the fact that the detailed enquiry was not conducted by the respondents against the petitioner, yet the order dated 29.5.2014 was passed holding the petitioner guilty of the misconduct and refusing to extend the period of contract appointment. In view of the aforesaid analysis, again the orders passed by the respondents cannot be sustained. As a result, consequential order of termination of the petitioner so issued on 4.6.2014 is also not sustainable in the eye of law.

10. Consequently, the writ petition is allowed. The order dated 15th May 2014 (Annexure P/11), 29.5.2014 (Annexure P/12) and 4.6.2014 (Annexure P/13) are hereby quashed. The petitioner be reinstated in service of contract appointment by extending her period of contract appointment in terms of the scheme of the State Government. Looking to the peculiar facts and circumstances of the case, the petitioner would be entitled to the back wages for the period of her absence from service on account of aforesaid order of termination.

11. The writ petition is allowed to the extent indicated hereinabove. There shall be no order as to costs.