
(2015) 10 JH CK 0141

In the Jharkhand High Court

Case No : Writ Petition (S.) No. 5816 Of 2013

Ganesh Mahto And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 30-10-2015

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : 2016 (1) JLJR 69

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : Ashrafuzzaman Khan, B.N. Tiwary

Final Decision : Disposed Of

Judgement

1. In the accompanied writ application the petitioners have, inter-alia, prayed for quashing of the order dated 09.06.2012 issued by respondent no. 3 terminating the services of the petitioners and for direction upon the concerned respondents to reinstate the petitioners with all consequential benefits.

2. Sans detail of the facts as disclosed in the writ application in the nutshell is that the petitioners were appointed as Gram Rozgar Sevak in the year 2007 and continued upto 09.06.2012 without any interruption in services. A show cause notice was issued to the petitioners regarding less expenditure in the year 2009-10, 2010-11 and 2011-12. The petitioners in pursuance to the show cause notices have submitted their replies before the authorities. But the concerned authorities kept the reply filed by the petitioners for 37 days and without going through the replies suddenly on 09.06.2012 an order of termination has been passed by the concerned authorities. It has been contended in the writ application that the respondent authorities has passed the order of termination on 09.06.2012 whereas the replies of show cause has been received by the office of the respondents on 12.06.2012 and 14.06.2012 in respect of Baghmara Block which amply reflects about the predetermination of mind for removal of these petitioners. Being aggrieved and dissatisfied with the action of the respondents,

the petitioner prayed before the Appellate Authority regarding their illegal removal but no action was initiated for disposal of the representations dated 22.09.2012, 21.05.2013 and 16.08.2013. Being aggrieved by the impugned order of termination and the inaction in disposal of the representations, the petitioner finding no other efficacious alternative remedy have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for redressal of their grievance.

3. Per contra a counter-affidavit has been filed on behalf of the respondent 1 controverting the averments made in the writ application. It has been, inter-alia, submitted in the counter-affidavit that under MANREGA Programme during the financial year 2009-10 to 2011-12, review of expenses has been made by the authority and it has been found that on an average in the said scheme the expenses much below than Rs. 2 lacs which is alarming in view of the execution of the said Government scheme and accordingly, those Gram Rojgar Sewak who has not achieved the target of Rs. 2 lacs expenses on such scheme, explanation has been sought for from such persons by the authority vide memo no. 945 dated 02.05.2012. It is pertinent to mention here that in terms of direction contained in letter dated 09.06.2012 as well as vide conference of MANREGA Commissioner or Rural Development Department, Government of Jharkhand, Ranchi after merger of Panchayat into Municipal Corporation additional/excess who were working on contract basis, whose services should be dispensed with and accordingly on the basis of explanation furnished by various Rozgar Sewak, explanation of 7(seven) such Gram Sewaks, who have failed to furnish their explanation in the stipulated period has been reviewed by the authority, according to the aforesaid Government Directives. It has further been submitted that the letter dated 09.06.2012 issued by the Government is a policy decision of the State Govt. and as such question of quashing the said letter does not arise.

4. Heard Md. A. Khan, learned counsel appearing for the petitioner and Mr. Kumar Sundram, learned J.C. to A.G. appearing for the respondents.

5. Learned counsel for the petitioner has submitted that the reason for terminating the services of the petitioner, that is, the excess amount spent on the implementation of the programme, is not rational and the authorities have not disclosed the basis/criteria for dispensing with the services of the petitioners.

6. On the other hand, learned counsel for the respondents urged that the appointment of the petitioners was purely contractual and in the appointment letter it has been stated that it can be terminated without issuing any notice. The petitioners have no right against the post on which they were appointed and therefore, this Hon'ble Court may not interfere in the matter.

7. After hearing learned counsel for the respective parties and on perusal of the documents particularly letter dated 16.05.2012, would indicate that since 6% extra expense was incurred in the implementation of the programme, a decision was taken by the State Rural Employment Guarantee Commissioner and it was

communicated to the Deputy Commissioner-cum-District Programme Co-ordinator that the services of the excess Rozgar Sevaks should be terminated. No other reason has been assigned by the respondents in the impugned order. Further, a perusal of the document dated 16.08.2012 would indicate that a contrary view has been taken by another authority of the State. Moreover, it is a matter of record that the reply to the show-cause notice submitted by the petitioner has not been considered by a competent authority and the authority has also not assigned any reason or indicated the yardstick which was adopted, for terminating with the service of the petitioner.

8. During pendency of the writ application, a supplementary affidavit has been filed on behalf of the petitioners where, inter-alia, it has been submitted that the case of the petitioners is squarely covered by the order dated 18.07.2013 passed in W.P.(S) No. 281/13.

9. On hearing counsel for respective parties at length and on perusal of the records, I am of the considered view that the present case is squarely covered by order dated 18.07.2013 passed in W.P.(S.) No. 281/2013. Therefore, the impugned order of termination dated 09.06.2012 is illegal. However, it is made clear that if any yardstick is adopted by the authority such as "last come first go" and the petitioners fall within the zone of such yardstick, it would be open to the respondent to pass appropriate order after reinstating the petitioners in services.

10. Accordingly, with aforesaid directions the writ petition is disposed of.