
(2010) 03 CHH CK 0040
In the Chhattisgarh High Court
Case No : Writ Petition No. 974 of 2010

Mariyam Ali

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 08-03-2010

Acts Referred:

Citation : (2010) 2 CGLJ 385

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Anoop Majumdar, for the Appellant; P.K. Bhaduri, Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

Heard.

1. The Petitioner, by this petition, seeks to challenge the order dated 29.11.2009, passed by the Respondent No. 2, whereby the services of the Petitioner as District Coordination Commissioner (Guide), Rajnandgaon, has been terminated.

2. By order dated 15.9.2006 (Annexure P/2) the Petitioner was appointed on the post of District Coordination Commissioner (Guide) for District Rajnandgaon on honorarium. On 22.2.2008 an advertisement (Annexure P/3) was issued inviting applications from the eligible candidates for appointment on the regular posts of District Coordination Commissioner through direct recruitment, pursuant to which the Petitioner also applied for the post and accordingly by letter dated 8.10.2008 (Annexure P/4) she was called for interview on 14.10.2008. According to the Petitioner she was appointed as ad hoc District Coordination Commissioner, Rajnandgaon but no formal appointment order was issued. By the impugned order dated 29.11.2009 without holding an enquiry the services of the Petitioner has been terminated on the ground that a complaint was received against the Petitioner about indiscipline of the Petitioner at State headquarter.

3. Learned Counsel appearing for the Petitioner submits that although the appointment of the Petitioner was on ad hoc basis but the impugned order is a stigmatic order, which was passed without conducting an enquiry and without affording an opportunity of hearing to the Petitioner. During the service period the Petitioner received various appreciations and certificates for her distinguished performance of duties. Thus, the termination of the Petitioner is bad in law. In support of his submission Learned Counsel rely on a decision of Supreme Court in *Jaswantsingh Pratapsingh Jadeja v. Rajkot Municipal Corporation and Anr.* (2007) 10 SCC 71 wherein it is held that "From the discussions made hereinbefore, it is evident that termination of services of the Appellant purporting to discharge him simplicitor cannot be accepted, being stigmatic in nature."

4. Learned Counsel further rely on a decision of Supreme Court in *Nehru Yuva Kendra Sangathan Vs. Mehbub Alam Laskar*, , wherein the Appellant Sangathan was an autonomous body. The Respondent was appointed as a Youth Coordinator by the Appellant and was placed on probation with the stipulation that during the probation period the Sangathan could terminate his services without notice and without assigning any reasons. On the allegation of withdrawal of some amount from the government fund and depositing in his personal bank account an enquiry was conducted behind his back and on the basis of the result thereof, his probation was terminated. It is held that "The order dated 24-5-1995 was, indisputably based on the findings that an enquiry had been made behind the back of the Respondent Had the result of the preliminary enquiry been taken into consideration only for the purpose of judging the suitability of the Respondent to continue in service, the same could not have been said to be a foundation for terminating the probation."

5. Learned Counsel submits that admittedly, in the case on hand no enquiry was conducted and no opportunity was afforded to the Petitioner to put forth her explanation etc.

6. I have heard Learned Counsel appearing for the parties and perused the pleadings and documents appended thereto.

7. In the case on hand, indisputably, according to the Petitioner no appointment order was passed after interview on 14.10.2008, however, the impugned order dated 29.11.2009 has been passed. It is not a case where the Petitioner was appointed in accordance with the constitutional scheme of employment, as pursuant to the interview, appointment was not made. The Petitioner was initially appointed on 15.9.2006 on temporary basis subject to condition that the appointment was purely temporary and the same could be terminated any time without prior notice. The appointment of the Petitioner was also not on any payment, but on honorarium basis. Thus, the question of holding an enquiry before disengaging the services of the Petitioner does not arise. The Petitioner has not acquired any right on the basis of the order dated 15.9.2006, which was temporary and on honorarium basis. Law in this regard is well settled that a person who has no right to the post has no right to continuation, reinstatement

or regularization in service. (See Secretary, State of Karnataka and Others Vs. Umadevi and Others, , Official Liquidator Vs. Dayanand and Others, . Thus the Petitioner is not entitled to any relief, as claimed in this petition.

8. For the reasons afore-stated, the Petitioner has failed to establish any right to the post and, as such, no relief on the ground that disengagement was stigmatic, can be granted.

9. In the result, the writ petition fails and is hereby dismissed.

10. There will be no order as to costs.