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(2010) 01 JH CK 0063

In the Jharkhand High Court

Promila Hansda APPELLANT

Vs

The State of Jharkhand and Others RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Citation : (2010) 01 JH CK 0063

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—The present writ petition has been preferred by Anganbari Sevika of village-Sangrampur, District-Sahebganj, mainly for the reason that after her appointment vide letter dated 11th July, 2007 and after getting training for the period running from 27th February, 2008 to 27th March, 2008 and then after serving several months to the satisfaction of the respondents abruptly, unilaterally, arbitrarily and without giving show cause notice and much less, without giving any opportunity of being heard to the petitioner, the services of the petitioner is brought to an end vide order dated 15th April, 2008 at Annexure-7 to the memo of the petition, which is thoroughly a non-speaking order and, hence, the present petition has been preferred.

2. Learned Counsel for the petitioner has submitted that the petitioner is duly qualified and legally appointed as Anganbari Sevika. She was selected, as such, in accordance with law. She was appointed as Anganbari Sevika of village Sangrampur District-Sahebganj w.e.f. 11th July, 2007. Thereafter, she validly undergone a training for a month w.e.f. 27th February, 2008 to 27th March, 2008. She was also called upon to verify her certificates etc. which are found to be valid one and abruptly on 15th April, 2008, the services of the petitioner have been brought to an end only on the ground that her selection was illegal. No such notice ever was given to the petitioner, nor any opportunity of being heard was given to the petitioner, otherwise, the petitioner would have pointed out that there was no illegality in her appointment and selection and what type of error

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committed by whom is also not reflected in the impugned order. General allegation has been levelled by the respondents and they have presumed that it is correct allegation and on such presumption, services of the petitioner has been terminated vide order dated 15th April, 2008 vide order at Annexure-7 to the memo of the petition and therefore, the concerned impugned order deserves to be quashed and set aside.

3. I have heard learned Counsel for the respondents, who has submitted that once the petitioner''s appointment is illegal respondents shall not allow her to continue in her services as Anganbari Sevika and therefore, her services have been terminated because from very beginning her selection was illegal and therefore, the order dated 15th April, 20o8 has been passed by respondent No. 5 and therefore, the petition deserves to dismissed.

4. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, I hereby quash and set aside the said order passed by respondent no ''5 dated 15th April, 2008 at Annexure-7 to the memo of the writ petition, mainly on the following facts and reasons:

(i) The petitioner was appointed as Anganbari Sevika at village Sangrampur, District-Sahebganj w.e.f. 11th July, 2007. She was selected by Aam Sabha and her appointment was affirmed by the State Government authorities. Thereafter, she was joined the duty as Anganbari Sevika.

(ii) The petitioner was also sent for training for the period running w.e.f. 27th February, 2008 to 27th March, 2008. Thus, the petitioner has also undergone the training imparted by the respondents for Anganbari Sevika''.

(iii) It also appears that the petitioner was called upon for verification of the educational certificates etc. and though certificates were also found valid one, no grievances about the services have been reflected in the termination order.

(iv) It appears that the petitioner''s services have been brought to an end vide order dated 15th April, 2008 by respondent No. 5 by order at Ahnexure-7 to the memo of the writ petition on the ground that her selection was illegal notice was ever given to the petitioner. No opportunity of being heard was ever given to the petition. Unilaterally upon presumption of correctness of the allegations, the services of the petitioner have been brought to an end. This is patent illegality committed by the respondents. After the appointment of the petitioner on a particular post and after rendering services for several months by the petitioner on the said post, if the petitioner is to be ousted from the services for any reason whatsoever, bare minimum requirement is to give a notice and an opportunity of being heard to the petitioner. Thus, there is gross violation of the principles of natural justice in passing the order of termination dated 15th April, 2008 of the services of the petitioner by respondent No. 5. Had an opportunity would have been given to the petitioner, the petitioner would have pointed out to the concerned respondent authority that there is no illegality in her selection as Anganbari Sevika. This opportunity has never afforded by the respondents to the

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petitioner.

5. As a cumulative effect of the aforesaid facts'' and reasons, I hereby quash and set aside the order passed by respondent No. 5 dated 15th April, 2008 at Annexure-7 to the memo of the writ petition. This writ petition is, hereby, allowed with cost of Rs. 5,000/- (Rs. five thousand only). Initially, the amount shall be given to the petitioner by the respondent-State and thereafter, it shall be deducted from the erring officer, after holding enquiry. Such officials of the Government must keep in mind that principles of natural justice ought to have been followed and complied with, before termination of services pi an employee of the State. Such a simple principle of law cannot be ignored by the State officials.

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