
(2018) 04 CHH CK 0214
In the Chhattisgarh High Court
Case No : WPS No. 3098 of 2018

Smt. Kanti Devi Sahu And Ors

APPELLANT

Vs

State Of C.G. And Ors

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2018) 04 CHH CK 0214

Hon'ble Judges : MANINDRA MOHAN SHRIVASTAVA, J

Bench : Single Bench

Advocate : A.N. Pandey, Satish Gupta

Final Decision : Dismissed

Judgement

1. Heard on admission.

2. Present petition has been filed against order dated 28-03-2018 by which the Collector has terminated contractual employment of the petitioner on allegations of irregularities and negligence in performance of duties.

3. Learned counsel for the petitioner would submit that the petitioner has been dismissed from service without holding fulfilled departmental enquiry but only by giving a show cause notice. After show cause notice was given to the petitioner, the petitioner not only replied to the allegations but also

explained his position. The nature and gravity of allegation against the petitioner was not of such a nature as to warrant termination. It is further

submitted that as the petitioner was appointed by respondent No. 3, the District Programme Officer, therefore, Collector could not have terminated his

services. Further submission is that the petitioner has not committed any misconduct or irregularity or acted negligently in performance of his duties

and functions.

4. In so far as, challenge to the authority of Collector is concerned, the same is liable to be rejected on the threshold because the petitioner was

appointed only under the orders of the Collector vide order dated 24-11-2017 Annexure P-2. District Programme Officer acted under the authority of

the Collector. He was authorised by the Collector and the order has been issued from the Office of the Collector (Women and child Development

Department). Present is not a case of statutory appointment under any service rules wherein, District Programme Officer alone has been designated

as the appointing authority but appointment of the petitioner is merely contractual and non-statutory appointment.

5. As far as grievance with regard to the procedure adopted in terminating the petition is concerned, this Court does not find that the procedure

adopted by the competent authority suffers from any illegality or violation of principles of nature justice. The petitioner was merely a contractual

employee. His appointment order dated 24-11-2017 shows that he was appointed on contractual posts for a short period of two years which could be

extended upon assessment of his performance for further period. The condition of appointment also shows that the services of the petitioner could be

terminated by giving him a months notice in case his work is not found satisfactory.

6. As the petitioner is not a regular Government Servant and only a contractual employee, the provisions of service C.G. Classification and control

Appeal rules, 1966 are not applicable. Rule 3 of the rules of the 1966 clearly provides that the rules shall not apply to any person in casual

employment. The person appointed on contractual basis for two years cannot be said to be a member of Civil services of the State but he only

acquires the status of person in causal employment which could be terminated in accordance with the terms of the appointment order. It is not

necessary for the competent authority to issue detailed charge-sheet and institute departmental enquiry under rule 14 of the rules of 1966.

7. Nevertheless, it being a case of public employment, principles of fairness, natural justice would be applicable. These requirements in public domain

emanate from mandate of article 14 of the Constitution of India. Even though, a detailed departmental enquiry may not be required under the law,

atleast an opportunity of hearing is necessarily to be afforded before terminating the services of a contractual employee. If the operative reason to terminate the services is allegation of misconduct as distinguished from mere unsuitability for the job, if the work is not satisfactory, the services could be terminated by giving a month's notice as given in the terms and conditions of employment. If there is an allegation of misconduct, though departmental enquiry may not be necessary, show cause notice is required to be given to afford the contractual employee an opportunity of hearing and rebutt the allegations. This much of exercise has definitely been done in the present case. The petitioner was given show cause notice on more than one occasion, his reply was obtained and authority, not satisfied with his reply, decided to terminate services of the petitioner. Thus, the mandate of article 14 is fully complied with. There is no material, pleading or any other material documents to show that the extraneous consideration played role in terminating service of the petitioner. In writ petitions, the Writ Courts do not act as appellate authorities The decision making process and not the decision, falls for scrutiny to find out whether the action of the public authority is in accordance with law. If there is defect in the decision making process or the decision is tainted with malice in law or malice infact and the authority which exercised the power had no authority under the law to pass order or where the order suffers from perversity, interference by the writ Court may be called for.

8. Applying the aforesaid well settled principles in the matter of interference in writ petition, in the factual premise of the present case, petitioner being a contractual employee, this Court is not inclined to interfere with the order impugned. The writ petition is therefore dismissed.