

(2012) 06 JH CK 0063

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4025 of 2009

Smt. Rani Kisku

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-06-2012

Acts Referred:

Citation : (2012) 3 JCR 429 : (2012) 3 JLJR 507

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : M.M. Pan, for the Appellant;

Final Decision : Allowed

Judgement

D.N. Patel, J.—Counsel for the petitioner is challenging the order dated 26th February, 2008, which is at Annexure 4 to the memo of the petition, passed by Child Development Project Officer, i.e. Respondent No. 6, whereby the services of the petitioner was terminated. It is submitted by counsel for the petitioner that petitioner was appointed as Anganbari Sevika on 13th April, 1999 in Budhudih Anganbari Center, District Dumka and her services have been terminated by the District Programme Officer. Dumka vide letter dated 14th February, 2008, which is at Annexure E to the counter affidavit. It is further submitted by the counsel for the petitioner that on perusal of Annexure 4 to the memo of the petition and Annexure E to the counter affidavit, it appears that certain allegations have been levelled against the petitioner, i.e. negligence in her duties on 6th January, 2008 and for this negligence in duty for one day services of the petitioner have been terminated without holding any enquiry, and therefore, petitioner is challenging both Annexure 4 to the memo of the petition and Annexure E to the counter affidavit. In case there is any negligence on the part of the petitioner on that particular day, a detailed reply was given by the petitioner, but the same was not appreciated either in the impugned order at Annexure 4 to the Memo of the petition or in the order at Annexure E to the counter affidavit and thoroughly non-speaking orders have been passed, which are at Annexure 4 as well as Annexure

E to the counter affidavit. Counsel appearing for the respondent State has vehemently submitted that there is negligence in her duty on the part of the petitioner on 6th January, 2008, which was a National Pulse Polio Day and therefore, her services have been, terminated. A detailed order has been passed by the District Programme Officer, Dumka, which is at Annexure E to the counter affidavit filed by the respondents and on the basis of this order, impugned order at Annexure 4 to the memo of the petition has been passed.

2. Having heard both sides and looking to the facts and circumstances of the case, I, hereby, quash and set aside the order dated 26th February, 2008, at Annexure 4 to the Memo of the petition, passed by the Child Development Project Officer, Ramgarh as well as order dated 14th February, 2008 at Annexure E to the counter affidavit, passed by the District Programme Officer, Dumka mainly for the following facts and reasons :

(I) The present petitioner was appointed as Angan Bari Sevika in the Budhudih Anganbari Centre, District Dumka on 13th April, 1999. Thereafter, she was serving honestly, sincerely and diligently and to the satisfaction of the respondent authorities. The salary was paid by the respondent State authorities to the petitioner and never any misconduct was committed by the petitioner in the past as submitted by the counsel for the petitioner.

(II) It appears that on 6th January, 2008 i.e. on a National Pulse Polio Day, as alleged by the respondents, there was negligence in duties on the part of the petitioner and only on this ground, without holding any enquiry, services of the petitioner have been brought to an end.

(III) On perusal of the order at Annexure 4 to the memo of the petition, passed by the Child Development Project Officer, Ramgarh dated 26th February, 2008, it appears that no reason has been assigned therein except that some officer holding high rank has passed an order dated 14th February, 2008 terminating the services of the petitioner and in the light of that order services of the petitioner has been terminated by the Child Development Project Officer, Dumka. No copy of this order of the District Programme Officer has been given to the petitioner. Thus, there was prima-facie, violation of the principles of natural justice. A copy of the letter of the District Programme Officer should have been given to the petitioner. It appears that the District Programme Officer, Dumka had passed an order on 14th February, 2008, a copy of which is annexed to the counter affidavit as Annexure E and from perusal of this order it appears that without holding an enquiry the allegation against the petitioner was presumed to be true and correct, which is not right in the eye of law.

(IV) Assuming without admitting that there was negligence in duties on the part of the petitioner on 6th January, 2008, then also the punishment of dismissal for negligence in duty for only one day is shockingly disproportionate, especially when the petitioner has been working since 1999 and never in the past any notice was given to the petitioner for any misconduct. Moreover, explanation

given by the petitioner has not been considered by the respondent authorities, as it appears from the order at Annexure E to the counter affidavit.

3. As a cumulative effect of the aforesaid facts and reasons, both the orders, i.e. order dated 26th February, 2008 (Annexure 4 to the memo of the petition) passed by the Child Development Project Officer, Ramgarh and order dated 14th February, 2008 (Annexure E to the counter affidavit) passed by the District Programme Officer are hereby quashed and set aside.

4. The petition is allowed and hereby disposed of. The respondents are directed to make payments of all the consequential benefits to the petitioner within a period of four weeks from the date of receipt of this order.