
(2012) 07 SHI CK 0005
In the High Court Of Himachal Pradesh
Case No : CWP No. 4702 of 2012-A

Smt. Seema Joshi Sharma

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 18-07-2012

Acts Referred:

Citation : (2012) 07 SHI CK 0005

Hon'ble Judges : Rajiv Sharma, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Sanjeev K. Suri, for the Appellant; Vivek Thakur, Addl. A.G. with Mr. Rajesh Mandhotra, Dy. A.G., for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, Judge

1. Petitioner was appointed as Anganwari Worker in Anganwari Centre, Kalehra-II on 10.8.2007. One Sh. Yash Pal Thakur sought information with regard to list of beneficiaries of Anganwari Centre, Kalehra-II and the detail of the rations received and distributed with effect from 1.8.2010 to 31.1.2011. It appears that inspection of Anganwari Centre, Kalehra-II was carried out and the details whereof were supplied to the petitioner vide Annexure P-3 on 4.6.2011. Petitioner was also informed about the cuttings, over-writing and use of white fluid vide Annexure P-4 dated 21.9.2011. She was directed to appear before the Directorate of Woman and Child Development Department, Himachal Pradesh, vide Annexure P-5. Petitioner was again informed on 3.2.2011 vide Annexure P-6 about the cuttings, over-writing and use of white fluid and distribution of excess ration. Petitioner filed detailed reply to the same vide Annexure P-7 dated 14.12.2011. Petitioner has given detailed explanation about the cuttings, over-writing and use of white fluid and distribution of rations. Petitioner was issued a show cause notice vide Annexure P-8 dated 9.3.2012. She was called upon to submit her explanation/report within 15 days, failing which she would be deemed to have been removed from service as per para 7 of the Terms and Conditions of

Services. Petitioner filed detailed reply to the show cause notice on 24.3.2012 (Annexure P-9). The Child Development Project Officer sent the case to the Director seeking approval to remove the petitioner. Thereafter, letter dated 14.6.2012 was prepared. However, the same was not supplied to the petitioner. She was orally directed not to attend the office from 16.6.2012. Mr. Sanjeev K. Suri has vehemently argued that services of the petitioner has been terminated without complying with the mandatory conditions of the scheme notified vide Annexure P-10. He has also argued that the petitioner has maintained the records as per law and wherever there was any mistake; it was rectified by doing the needful. He has further argued that the reply filed by the petitioner on 24.3.2012 has not been taken into consideration.

2. In order to ascertain whether the facts enumerated in Annexures P-2, P-3, P-4, P-5, P-6 and P-8 are borne out from the records, the records were directed to be produced. The records have been produced and we have perused the records, i.e. personal file of the petitioner, stock register No. I, stock register No. II, another stock register and attendance register-I.

3. Petitioner has been appointed as Anganwari Worker on 10.8.2007. According to Annexure P-6, the following items in excess were distributed by the petitioner:

Milk powder

580 grams,

Porridge (Dalia)

083 grams,

Salt

3 kgs,

Sujji (semolina)

80 grams,

Besan (chickpea flour)

2.625 kgs,

Rice

78 grams

Nutri- mix

3.800 kgs

4. According to this Annexure, at page 38 dated 9.11.2011, 5 mothers and 7 children have been supplied with 99 grams of milk whereas on 12.11.2010 it was 728 grams. It was also pointed out that there was cutting at pages 67, 68, 69 and 74. Thus, the norms prescribed have not been followed. In the entry dated

27.12.2010, there was discrepancy with regard to distribution of rations to the mothers and expectant mothers. Similarly, for the month of October, 2010 at page 28, presence of beneficiaries has been scored off. In the month of December, 2010 at page 30, neither the petitioner has marked her presence nor has she submitted leave and the column was kept blank. There was cutting with regard to presence of Helper in the month of January, 2011. Petitioner was called upon to remove the shortcomings within a period of 10 days and to inform the Child Development Project Officer, Haroli. Petitioner in her reply has specifically stated that the milk powder weighing 589 grams was given in excess since expiry date was approaching. As far as the salt is concerned, she brought to the notice of Child Development Project Officer that recovery of ` 17.25 has already been made and she stated that it happened due to oversight since the salt was kept with other items. She also pointed out that Sujji weighing 80 grams fell on the floor and the same could not be used. Consequently, excess Sujji was used. As far as Besan is concerned, according to her, since the Sujji was not available, Besan was used excessively. According to her, there was no mistake as far as distribution of 380 grams nutri-mix is concerned. According to her, children below the age of 3 years are given 90 grams of sprouted gram and children more than 3 years old are given 30 gram of nutri-mix with sprouted gram. She also pointed out to the Child Development and Project Officer that the cuttings have been carried out to keep the records straight. She has also explained cuttings, overwriting and use of white fluid as per Annexures "A" and "B" annexed with Annexure P-7. Petitioner was legitimately, expecting that since she has explained how the rations have been distributed to the beneficiaries and the cutting, overwriting and use of white fluid, the matter would be closed.

5. Petitioner's explanation was sought for as per communication dated 1.2.2012, which is at page 238 of the record. Petitioner was asked to explain why her services be not terminated. Petitioner was informed on 14.2.2012 that she has not filed any reply. Thereafter petitioner was served with a notice dated 9.3.2012 whereby she was directed to file reply within 15 days. Petitioner filed detailed reply to the same on 24.3.2012. Petitioner has specifically mentioned in the reply that she has never received notice dated 1.2.2012. Thereafter, matter was sent by the Child Development Project Officer to the District Programmer Officer, Una to seek approval qua termination of petitioner's services. The Director, Woman and Child Development Department approved the termination of the petitioner on 5.6.2012. Thereafter, office order dated 14.6.2012 was prepared whereby the services of petitioner were terminated. The copy of the same has not been supplied to the petitioner though she was orally told not to report for duties with effect from 15.6.2012.

6. There is a detailed procedure under the scheme the manner in which services of Anganwari Worker/ Anganwari Helper can be terminated. It can be terminated only for any act of misconduct, misbehavior and for non-performance of her duties. In the instant case, serious misconduct has been attributed to the petitioner. Petitioner gave her detailed explanation, as noticed above, despite

that the decision has been taken to terminate the services of the petitioner. Since the allegations levelled against the petitioner were serious in nature, the same were required to be inquired into by holding a summary inquiry. Detailed procedure provided under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 for holding inquiry is not required to be adhered to but at the same time there has to be summary inquiry dealing with the allegations levelled against the Anganwari Worker/Anganwari Helper. It cannot be mere ipse dixit of the Disciplinary Authority. It has come in the notice that the reply filed by the petitioner was not satisfactory. How the reply filed by the petitioner was not found satisfactory has not been explained. Once the notice has been issued and the explanation has been given, the same was required to be taken into consideration by dealing with each and every point raised by the petitioner. Merely saying that the reply has not been found satisfactory is not the compliance of the principles of natural justice. There has to be fairness and reasonableness in the working of the authorities. The approval to be given by the Director, Social Justice and Woman Empowerment and the person on whom the powers have been delegated has to apply its mind and the same is to be reflected at the time of taking decision. He is not bound to ditto the decision of the Child Development Project Officer. He has to summon the records and thereafter he has to see whether the approval has to be accorded or not. Accordingly, in view of the observations and discussions made hereinabove, the petition is allowed. The decision of respondents to terminate the services of the petitioner as Anganwari Worker, Anganwari Centre Kalehra-II vide letter dated 14.6.2012 is quashed and set aside. Respondents are directed to permit the petitioner to discharge her duties as Anganwari Worker, Anganwari Centre, Kalehra-II. Pending application(s), if any, also stands disposed of. No costs.