
(2010) 02 JH CK 0065
In the Jharkhand High Court

Smt. Sunita Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-02-2010

Acts Referred:

Citation : (2010) 4 JLJR 352

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—The present petition has been preferred by the petitioner mainly against an absolutely arbitrary order of termination of services, passed by the Deputy Development Commissioner, Bokaro, dated 10th April, 2008, on the basis of so-called or alleged inquiry which was conducted unilaterally, arbitrarily, capriciously and mala fide and without giving any intimation to the petitioner.

2. I have heard learned Counsel appearing on behalf of the petitioner, who has submitted that the petitioner was appointed as Anganwari Sewika at Village-Machatand, District-Bokaro with effect from 20th July, 2007. Appointment letter is at Annexure-4 to the memo of petition. Thereafter, the petitioner worked for several months to the satisfaction of the respondents and thereafter, abruptly without giving any notice and without giving any opportunity of being heard, services of the petitioner have been terminated by the Deputy Development Commissioner, Bokaro vide order dated 10th April, 2008 which is at Annexure-5 to the memo of petition. The impugned order is in gross violation of principles of natural justice. The so-called inquiry, which has been alleged to have been conducted, but, that is also done ex parte. The petitioner was never invited while holding the inquiry, otherwise, the petitioner would have been pointed out that the petitioner is a resident and belonging to Village-Machatand, Distt: Bokaro. The petitioner is having enough documentary evidences also like Annexure-2, Annexure-3 etc.

3. It is also submitted by learned Counsel for the petitioner that what was the reason for holding an inquiry without inviting the petitioner, is not known to the petitioner. On the basis of some complaints, the services of the petitioner have been terminated. The petitioner is not given, even those complaints or gist of the complaints. The so-called inquiry, which has been conducted is not inquiry in the eyes of law. The respondents cannot hold inquiry while sitting in one corner of the room, without giving any notice to the petitioner. Had an opportunity would have been given to the petitioner, the petitioner would have been pointed out, several documentary evidences like Annexure-2, Annexure-3 etc. The complaints which are made against the petitioner are false and frivolous and the petitioner is duly qualified and eligible and, therefore, rightly selected for the post of Anganwari Sewika. There are no justifiable reasons in fact and in the eyes of law for the termination of her services and, therefore, the impugned order, passed by the Deputy Development Commissioner, Bokaro, dated 10th April, 2008 at Annexure 5, deserves to be quashed and set aside.

4. I have heard learned Counsel appearing on behalf of the respondents-State who has mainly submitted that now counter-affidavit has been filed and it has been stated in the counter-affidavit that upon receiving complaints from the local residents of the aforesaid village, inquiry was conducted and inquiry report is against the present petitioner and, therefore, services of the petitioner were terminated as Anganwari Sewika by the Deputy Development Commissioner, Bokaro, vide order dated 10th April, 2008, and therefore, this petition deserves to be dismissed.

5. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, I hereby, quash and set aside order, passed by the Deputy Development Commissioner, dated 10th April, 2008, (Annexure-5 to the memo of petition) mainly for the following facts and reasons:

(i) The petitioner was appointed as Anganwari Sewika at Village-Machatand, Distt: Bokaro with effect from 20th July, 2007. The said appointment letter is at Annexure-4 to the memo of petition.

(ii) It appears that thereafter the petitioner resumed duty and worked as Anganweri Sewika for several months to the satisfaction of the respondents.

(iii) It also appear,, that the respondents have received some complaints from the villagers and the respondents without giving any notice to the petitioner and without giving any opportunity of being heard, an ex-parte inquiry is held by the so-called Inquiry Officer and inquiry report was also given to the Government, but, no copy of such report is ever given to the petitioner either prior to the termination or as on date of the termination and heavily a reliance has been placed by the Deputy Development Commissioner, Bokaro in his order of termination, dated 10th April, 2008 on the so-called inquiry report.

(iv) It ought to be kept in mind by the State authorities that whenever they are relying upon any document while passing impugned order, especially, termination

of services of any employee of the State, such document ought to be supplied to the petitioner. Apart from the fact that the ex-parte inquiry has been conducted, but, this report of the inquiry officer, who has conducted ex-parte inquiry has not yet been supplied with either prior to termination or as on date of the termination of, the services. Thus, there is a gross violation of principles of natural justice in holding the inquiry and also in not giving the copy of the inquiry report to the petitioner. Though it is heavily relied upon in the impugned order.

(v) Looking to Annexures 2 & 3, prima facie, there are the documents in favour of the petitioner. These documents are pertaining to the fact that the petitioner is residing within Village: Machatand, District-Bokaro. Annexure-2 is issued by the Government officer. Annexure-3 is also a document issued by the Deputy Commissioner or a District Magistrate, which is also issued by the Government officer. Had an opportunity would have been given to the petitioner like Annexures 2 & 3, there may be some other documents also with the petitioner or the petitioner could have pointed out by the other evidences also that the petitioner is definitely belonging to Machatand Village. Ex-Parte inquiry ought to have been avoided by the State of Jharkhand. This practice ought to be stopped to hold inquiry in one chamber without giving any notice to the petitioner. High ranking officer of the State must know that before termination of the services of any employee, the bare minimum requirement of observation of the principles of natural justice is a must. It is always expected from the high ranking officer(s) of the State that whenever they are given powers of termination of the services, they will not use arbitrarily those powers. These powers are always coupled with duties and duties is to follow at least the principles of natural justice. Everything has gone ax parte in this matter.

6. As a cumulative effect of the aforesaid facts and reasons, I hereby, quash and set aside the order, passed by the Deputy Development Commissioner, Bokaro, dated 10th April, 2008, Annexure-5 to the memo of petition. The petition is allowed with a cost of Rs. 2,000/-, initially, this cost will be paid by the State of Jharkhand to the petitioner and the same will be deducted from the erring officer(s), after holding necessary inquiry.

7. Accordingly, this petition is allowed and disposed of.