

(2020) 07 MP CK 0151

In the Madhya Pradesh High Court

Case No : Writ Petition No. 586 Of 2020

Women And Child Development Department

APPELLANT

Vs

Mrs. Sunita Joshi

RESPONDENT

Date of Decision : 09-07-2020

Acts Referred:

Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 — Section 2(1)

Citation : (2020) 07 MP CK 0151

Hon'ble Judges : Prakash Shrivastava, J; Vivek Rusia, J

Bench : Division Bench

Advocate : Amol Shrivastava

Final Decision : Dismissed

Judgement

Prakash Shrivastava, J

[1] This Writ Appeal u/S.2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 is directed against the

order of the learned Single Judge dated 20/11/2019 whereby WP No.13320/2013 filed by the respondent has been allowed and the order of

termination from services has been quashed.

[2] The respondent was appointed as Anganwadi Worker in the year 1997 and her services were terminated by order dated 22/12/2012, therefore, she

had approached this Court in the year 2013 challenging the termination order on the main ground that the services of the respondent were terminated

without conducting an enquiry and without following the principles of natural justice and the termination was based upon incorrect premises. In the

reply, the appellant State had taken the plea that since the respondent had remained absent for a long time, therefore, by following the procedure

prescribed in the applicable circular, services of the respondent were terminated.

[3] Learned Single Judge after duly considering the entire record has found that the services of the respondent were terminated without conducting any proper enquiry.

Accordingly the termination order has been set aside and the respondent has been directed to be reinstated with 50% honorarium/back wages.

[4] Learned counsel for appellant submits that the show cause notice was duly issued to the respondent before terminating the services and in the inspection report during the surprise check respondent was found to be absent, therefore, the action to terminate the services of the respondent was taken. He further submits that the back wages have wrongly been awarded and atleast liberty should be granted to the appellant to take fresh action in accordance with law.

[5] Having heard the learned counsel for appellant and on perusal of the record, it is noticed that the procedure for termination of Anganwadi Worker

has been prescribed in the policy circular of the government dated 10/7/2007. In terms of Clause D-1 of the circular, the services of Anganwadi

Worker can be terminated on the ground of not running the Anganwadi Kendra as per rules or committing lapse in performing the duty. In such

exigency the project officer or other higher officer can terminate the services of Anganwadi Worker after giving an opportunity of hearing and on

finding her guilty in the enquiry. Hence, an enquiry is clearly contemplated before termination of Anganwadi Worker. Learned Single Judge has taken

note of the division bench judgment in the case of Smt. Parvati Pawar Vs. State of MP and others passed in WA No.111/2018 decided on 18/2/2019

wherein the aforesaid policy of the government has duly been considered and the necessity of following the principles of natural justice and conducting enquiry has been reiterated.

[6] In the present case, even if the stand of the appellant is accepted, then also only the show cause notice dated 16/11/2012 was sent to the

respondent but thereafter no enquiry was conducted and no finding of guilt has been recorded. In the aforesaid back ground, learned Single Judge has

not committed any error in allowing the writ petition and quashing the order of termination. Since the services of the respondent were wrongly

terminated, therefore, the honorarium to the extent of 50% has been awarded.

[7] So far as ground relating to liberty for taking fresh action is concerned, needless to say that since the impugned order has been set aside on the technical ground, therefore, the liberty of the appellant to take fresh action against the respondent in accordance with law is not curtailed.

[7] Even otherwise the record reflects that there is a delay of 121 days in filing the appeal. In IA No.1477/2020 the application for condonation of delay no proper explanation for the delay has been furnished. Hence, the appeal even otherwise is liable to be dismissed on the ground of delay.

[8] Hence, the appeal is dismissed on the ground of delay as also on merit.