

Court No. - 20

Case :- WRIT - A No. - 9516 of 2023

Petitioner :- Joytsna Manglam

Respondent :- State Of U.P. Thru. Prin. Secy. Medical And Health, Lucknow And 4 Others

Counsel for Petitioner :- Rajesh Kumar Singh, Shesh Mani

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. On 14.12.2023, the following order had been passed:-

"1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.

2. Under challenge is order dated 10.04.2023 whereby contractual employment of petitioner on the post of Staff Nurse has been dispensed with on the basis of certain allegations levelled against her.

3. It has been submitted that impugned order has been passed without considering reply submitted by petitioner and therefore indicates non-application of mind.

4. Learned State counsel however has adverted to the impugned order itself indicating that order has been passed in pursuance of decision taken on 29.03.2023 and opportunity of hearing was provided to petitioner as well as her reply considered. The resolution dated 29.03.2023 however is not on record.

5. List this case on 19.12.2023, as fresh in order to enable learned State counsel to bring on record the resolution dated 29.03.2023."

3. It has been submitted that although petitioner was employed on contract basis a Staff Nurse for the Primary Health Centre concerned but impugned order dated 10.04.2023 as well as the resolution dated 29.03.2023 have been passed against petitioner indicating stigmatic grounds inasmuch as comment upon petitioner's work and conduct have been indicated for which a preliminary inquiry was also held but subsequent to submission of the preliminary inquiry report, no proper inquiry nor any opportunity of hearing was provided to petitioner as would be evident from the impugned order as well as resolution dated 29.03.2023.

4. In pursuance of directions issued by this Court earlier,

learned State Counsel has produced a copy of the resolution dated 29.03.2023, which is taken on record and as well as inquiry report dated 26.03.2023. The same is also taken on record. A perusal of the inquiry report dated 26.03.2023, resolution dated 29.03.2023 as well as impugned order make it evident that petitioner's contractual services have been dispensed with on the ground of a complaint made by one Raksha Ram Chauhan and comment upon petitioner's work and conduct has also been examined.

5. However, a reading of aforesaid three documents also makes it evident that prior to dispensing with petitioner's contractual service, no opportunity of hearing whatsoever has been provided to her. It appears that petitioner was shown as having participated only in the inquiry but neither the resolution nor the impugned order indicate consideration of petitioner's reply.

6. In view of aforesaid fact, that petitioner's contractual service has been dispensed with on stigmatic grounds, it was incumbent upon the opposite parties to have provided any opportunity of hearing to petitioner. This course of action having not been followed, vitiates the proceedings.

7. In view of aforesaid, the impugned order dated 10.04.2023 is hereby quashed by issuance of writ in the nature of certiorari granting liberty to opposite parties to pass fresh orders but only after affording opportunity of hearing to petitioner and considering her reply.

8. Resultantly, petition succeeds and is **allowed** at the admission stage itself. Parties to bear their own cost.

Order Date :- 19.12.2023

Satish