

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 209 of 2023

Nasim Banu, aged about 39 years, W/O Md. Riyajuddin of Kiyamgei Mayai Leikai, P.O. & P.S. Iribung, Imphal East, Manipur, Pin – 795130.

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Commissioner/Secretary (Social Welfare), Government of Manipur at Babupara, P.O. & P.S. Imphal West, District Imphal West, Manipur.
2. The Director (Social Welfare), Government of Manipur at A.T. Line 2nd M.R. Gate, Ragailong, P.O. & P.S. Porompat, Imphal East, Manipur – 795001.
3. The Deputy Commissioner, Imphal East, Manipur at Porompat, Imphal East, Manipur.
4. The Child Development Project Officer (CDPO) ICDS-Project IE-II, Keirao Bitra.

.....Respondent/s

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner :: Mr. K. Roshan, Advocate.

For the respondents :: Mrs. Ch. Sundari, G.A.

Date of Hearing :: 07.10.2023

Date of Judgment and Order :: 17.01.2024

JUDGMENT & ORDER (CAV)

[1] Heard Mr. K. Roshan, learned counsel for the petitioner and Mrs. Ch. Sundari, learned G.A. for the State respondents.

[2] The petitioner was appointed as Anganwadi Worker vide order dated 08.07.2008 issued by the Child Development Project Officer, ICDS Project, Imphal East – II, Keirao Bitra along with others. It is stated that Integrated Child Development Services (ICDS) Scheme is a cent per cent Centrally sponsored Scheme and it was introduced in Manipur on 02.10.1975 with a pilot project at Ukhrul T.D. Block and the scheme was later on extended throughout the State with 34 projects covering 9 C.D. Blocks, 24 T.D. Blocks and 1 Urban. 4501 Nos. of Anganwadi Centres are also actively functioning under these projects and ICDS Project takes care for children below 6 (six) years of age including the essential needs of pregnant women and nursing mothers residing in socially backward villages and urban slums.

[3] The Ministry of Women & Child Development, Government of India sent a letter dated 14.03.2018 (Annexure – A/3) to the Administrative Secretaries of Social Welfare Departments of all States/Union Territories (UTs) to delegate the powers to recruit Anganwadi Workers (AWWs)/Anganwadi Helpers (AWHs) to the District Magistrates/District Collectors across the country and Supervisors (against promotion quota) under Anganwadi Services specially in 115 Aspirational Districts.

[4] Vide letter dated 16.08.2022, the Supervisor IE-II, Keirao Bitra informed the Child Development Project Officer (CDPO), Imphal East – II, Keirao Bitra that the petitioner was involved in a drug case on 11.08.2022. Accordingly, the CDPO, ICDS Project Imphal East – II, Keirao Bitra terminated the service of the petitioner as Anganwadi Worker with immediate effect due to her involvement in FIR No. 83(8) 2022 IBG-PS dated 10.08.2022. The termination order dated 18.08.2022 is impugned in the present writ petition on the ground that the same was issued without following due process of law and without any authority. It is stated that Show Cause Notice was not served to the petitioner and an enquiry was never conducted depriving the opportunity of being heard and the same is in violation of the law laid down by the Hon'ble Supreme Court and various High Courts. It is also stated that the power to recruit Anganwadi Workers/Anganwadi Helpers was delegated to the District Magistrates/District Collectors across the country by letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India and as such, the CDPO, ICDS Project, Imphal East – II, Keirao Bitra has no jurisdiction to issue the termination order of the petitioner. It is prayed that the impugned order be set aside and the petitioner be re-instated into her service with a consequential relief.

[5] The respondents filed counter affidavit, inter-alia, referring to the letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India. In para 2 of the letter, it is informed that the power to recruit Anganwadi Workers/Anganwadi Helpers may be

delegated to the District Magistrates/District Collectors across the country and in para 4, it is stated that such power shall be delegated to District Magistrates/District Collectors in 115 Aspirational Districts. It is clarified that in the State of Manipur, Chandel is the only Aspirational District. Vide letter dated 21.06.2018, the Director (Social Welfare), Manipur conveyed to the Deputy Commissioner, Chandel that it has been delegated the power of appointment of AWWs/AWHs and Supervisors, as Chandel has been selected in the list of Aspirational District from the State of Manipur. It is also reiterated that Social Welfare Department, being the Nodal Department for implementation, the CDPO has authority to recruit AWWs/AWHs for all districts of Manipur except the Aspirational District of Chandel. Admittedly, the petitioner was appointed in Imphal East District which is not an Aspirational District. It is also stated that the petitioner was found involved in drug trafficking and she being associated with young children, there is no bar from terminating her service due to involvement in serious crime. Anganwadi Workers and Anganwadi Helpers are not government servants in strict sense and are paid monthly honorarium by the Government of India from time to time and as such, they do not hold the status of government/semi-government employees of the State/Central Government. It is pointed out that the decisions of Madhya Pradesh and Gauhati High Court relied by the learned counsel for the petitioner are not applicable, as the termination in those case was due to negligence of duty and professional misconduct and there are statutory rules controlling their service conditions. It is submitted that the writ petition be dismissed.

[6] Mr. K. Roshan, learned counsel for the petitioner, submits that in the appointment order dated 08.07.2008, even though the petitioner and others were appointed to the post of Anganwadi Workers (AWWs) and Anganwadi Helpers (AWHs) with the monthly honorarium at the rate of Rs. 1000/- (Rupees one thousand) and Rs. 500/- (Rupees five hundred), no tenure is mentioned for such appointment. It is submitted that even though they are not the permanent government employees, the service of the petitioner and others are required as long as the project continues. It is further submitted that in absence of any rule for termination of service, at least Show Cause Notice to the petitioner is mandatory, otherwise the same will be in violation of the principle of natural justice. It is also stated that the CDPO is not the competent to terminate the service of the petitioner, as the power of appointment is delegated to District Magistrates/District Collectors by letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India. As a corollary, only District Magistrates/Deputy Collectors are competent to terminate the service of the Anganwadi Workers and Anganwadi Helpers.

[7] Mr. K. Roshan, learned counsel for the petitioner, draws the attention of this Court to the judgment passed by Madhya Pradesh High Court in the case of **Smt. Premlata Verma vs. The State of MP & Ors.** reported as **[Indiankanoon.org/doc/49233301/](https://indiankanoon.org/doc/49233301/)**. In that case, Anganwadi Worker was terminated on the recommendation of the Gram Sabha. It was held that procedure provided under Clause 5-A of the guidelines dated 02.03.2022 was not followed. Accordingly, the order of removal of the

petitioner from Anganwadi Worker was set aside. Learned counsel for the petitioner also refers to another decision of Division Bench of Gauhati High Court in the case of **Musstt Anwara Begum Barbhuiya vs. The State of Assam & 4 Ors.** reported as indiankanoon.org/doc/138165744/ where the petitioner was suspended and Show Cause Notice was issued. On finding her reply unsatisfactorily, the authority terminated her from service. It was held that termination of the petitioner was because of certain allegations on the part of the petitioner which was stigmatic in nature and held that the petitioner was entitled to certain protection. Accordingly, the Division Bench upheld the order of Single Judge by setting aside the termination order of the petitioner.

[8] Learned counsel for the petitioner also relies upon the judgment of the Hon'ble Supreme Court in the case of **V.P. Ahuja vs. State of Punjab & Ors.** reported as (2003) 3 SCC 239 wherein it was held in para 7 that even a probationer like a temporary servant is entitled to certain protection and his service cannot be terminated arbitrarily nor can his service be terminated in a cryptic manner without following the principles of natural justice. It is also submitted that in the present case, terminating the service of the petitioner for involvement in a criminal case is punitive and the same cannot be done without following due process and issuing the Show Cause Notice to her. Learned counsel for the petitioner further relies to the decision of **Radhey Shyam Gupta vs. U.P. State Agro Industrial Corp. Ltd.** reported as (1999) 2 SCC 21 where it was held that a probationer cannot be terminated with stigma without holding any enquiry. Reliance is also placed

on **Pradip Kumar v. Union of India: (2012) 13 SCC 182** to the point that stigmatic discharge order in violation of statutory rule on one month's notice period is illegal. In conclusion, Mr. K. Roshan, learned counsel for the petitioner, submits that the order of termination is without any authority and the same is vitiated, as the petitioner was terminated by a stigmatic order of allegation of involvement in a drug related case without following due process of law and prays that the same may be set aside and the petitioner be re-instated in service with whole consequential relief.

[9] Per contra, Mrs. Ch. Sundari, learned G.A. for the State respondents, refutes the allegation that the CDPO, ICDS Project is not competent to terminate the service of the Anganwadi Workers (AWWs)/Anganwadi Helpers (AWHs) like the petitioner. Learned G.A. draws the attention of this Court to the letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India informing all the Administrative Secretaries of Social Welfare Departments of all States/Union Territories regarding delegation of power of recruitment of AWWs/AWHs and supervisors of the ICDS Scheme. It is pointed out that in para 2 of the letter, the power to recruit AWWs/AWHs may be delegated to the District Magistrates/District Collectors across the country and in para 4, such power has to be delegated to District Magistrates/District Collectors in the 115 Aspirational Districts all over India. It is also pointed out that Chandel is the only Aspirational District in the State of Manipur and the State Government has delegated the power to appoint the AWWs/AWHs and Supervisors to the District Collector in Chandel. However, for the other Non-

aspirational Districts of Manipur, such as Imphal East, the Social Welfare Department being a Nodal Department has the power to appoint the AWWs/AWHs and Supervisors and as corollary, the authority to terminate the AWWs/AWHs for all Districts of Manipur except the Aspirational District of Chandel. Learned G.A. also distinguishes the cases referred by the learned counsel for the petitioner, especially, the judgment of Madhya Pradesh and Gauhati High Court on the ground that in these cases there were rules provided governing the appointment of Angwandi Workers and in the State of Manipur, there is no such rule/regulation. It is further submitted that as the petitioner was involved in serious offences of narcotic object and she being in touch with the small children, there is no impediment in terminating her service without any notice that too she, being not a Government Employee. Learned G.A. refers to the judgment in the case of **Ajit Kumar Nag vs. G.M., Indian Oil Corporation Ltd.** reported as **(2005) 7 SCC 764** where the Hon'ble Supreme Court held that dismissal without enquiry is permissible in certain cases where exigency of situation requires for prompt action be taken and suspending a workman would not serve the purpose.

[10] This Court has considered the rival submissions made at the bar and perused the materials on record and relevant law.

[11] ***The issues involved in the present case are:***

- (i) ***Whether the Child Development Project Officer, Integrated Child Development Services is competent to appoint and***

terminate Anganwadi Workers and Anganwadi Helpers in non-Aspirational Districts in the State of Manipur?

(ii) Whether an Anganwadi Worker appointed for ICDS Project, who is not a regular Government Employee, be terminated from service by a stigmatic order without issuing any Show Cause Notice, when there is no rule governing the service?

[12] This Court will first decide the question of competency of the Child Development Project Officer, ICDS, for appointing and terminating the service of the Anganwadi Workers (AWWs)/Anganwadi Helpers (AWHs). From perusal of the letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India (Annexure-A/3) to the Administrative Secretaries of Social Welfare Department of all States/Union Territories, it is mentioned in para 2 of the letter that the power to recruit AWWs/AWHs may be delegated to the District Magistrates/District Collectors across the country and in para 4, it is specified that such power is to be delegated to District Magistrates/District Collectors with respect to 115 Aspirational District all over India. Admittedly, for the State of Manipur, Chandel is the only Aspirational District out of 115 Districts identified by the Government of India all over the country.

[13] On careful reading of the letter dated 14.03.2018, it is crystal clear that the delegation for recruitment of AWWs/AWHs is mandatory to the District Magistrates/District Collectors for the Aspirational Districts and for the other Districts, it is not mandatory, but desirable. In this regard, Director,

Social Welfare Department, Manipur issued a letter dated 21.06.2018 to Deputy Commissioner, Chandel delegating the power of recruitment of AWWs/AWHs and supervisors in the Aspirational District of Chandel. For other remaining Districts of Manipur, this work is taken up by the Social Welfare Department which is a Nodal Department for implementation of the ICDS Project in the State of Manipur.

[14] On perusal of the appointment order dated 08.07.2008, appointing the petitioner and others as Anganwadi Workers and Anganwadi Helpers for ICDS Project, Imphal East – II, it is seen that the same was issued by the Child Development Project Officer, ICDS Project, Imphal East – II, Keirao Bitra. On the other hand, the order dated 18.08.2022, terminating the honorary service of the petitioner as AWW on her alleged involvement in criminal case, was also issued by the same CDPO, ICDS Project, Imphal East – II, Keirao Bitra. The orders of appointment of the petitioner as well as her termination are issued by the same official, i.e., the CDPO, ICDS Project, Imphal East – II, Keirao Bitra. This Court is also of the opinion that the CDPO is the competent authority for appointment of AWWs and AWHs for non-Aspirational Districts for the State of Manipur and as a corollary, the competent authority for termination of the service of Anganwadi Workers and Anganwadi Helpers in terms of the letter dated 14.03.2018 issued by the Ministry of Women & Child Development, Government of India.

[15] The next question to be decided is whether the service of Anganwadi Worker, who is not a regular Government Employee, be terminated without any due process when the termination order is stigmatic.

[16] In the present case, it is admitted fact that the petitioner has been appointed in connection with the ICDS Project on a monthly honorarium basis and in the appointment order dated 08.07.2008, the tenure is not mentioned. In other words, her service may be utilised as long as the ICDS Project continues.

[17] There is no material on record to indicate existence of any Rules or Regulations controlling the service conditions of Anganwadi Workers and Helpers. In the cases relied by Mr. K. Roshan, learned counsel for the petitioner, at least some Rules and Regulations are there governing the appointment/engagement of such workers or the employees. On bare reading of the impugned order dated 18.08.2022, this Court is of the considered view that the termination order is stigmatic, because the termination was due to her involvement in a criminal case. In fact, the termination order was issued without affording any opportunity to the petitioner for her explanation.

[18] This Court is of the opinion that at least a Show Cause Notice ought to be issued to the petitioner to explain the circumstances leading to her alleged involvement in the criminal case. The decision of **Ajit Kumar Nag** (Supra) as relied by the learned G.A. will not strictly be applicable in the

present case, as the dismissal without enquiry was done under standing order of India Oil Corporation.

[19] Accordingly, the impugned order dated 18.08.2022 issued by the Child Development Project Officer, ICDS Project, Imphal East – II, Keirao Bitra is set aside and the petitioner be re-instated to her service with continuity of service within a period of 30 days from the date of receipt of this order. However, the petitioner will not be entitled to back wages for the period under termination. It is clarified that the respondents are at liberty to take up any action in compliance with the principles of natural justice, if so advised.

[20] Writ petition is allowed and disposed of with the above directions. No cost.

[21] Send a copy of this order to the Director, Social Welfare, Manipur for information and necessary compliance.

JUDGE

FR/NFR

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