

THE HIGH COURT OF TRIPURA
A G A R T A L A

W.P(C) No. 374 of 2009

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In W.P(C) No. 374 of 2009.

Petitioner :

Sri Stipen Debbarma,

Son of Sri Girendra Debbarma, resident of Vill.
Choto Surma, P.O. Bamancherra, District-Dhalai,
Tripura.

By Advocate :

Ms. S. Deb Gupta, Adv.

Respondents :

1. The State of Tripura,

Represented by the Secretary to the Government of
Tripura, Rural Development Department, Agartala.

2. The District Programme Co-ordinator,

(D.M & Collector), Dhalai District, Jawaharnagar,
Tripura.

By Advocate :

Ms. A. S. Lodh, Addl. G. A.

In W.P(C) No. 375 of 2009.

Petitioner :

Sri Satish Debbarma,

Son of Sri Sankaram Debbarma, resident of
Mahavir, P.O. Bamancherra, District-Dhalai,
Tripura.

By Advocate :

Ms. S. Deb Gupta, Adv.

Respondents :

1. The State of Tripura,

Represented by the Secretary to the Government of
Tripura, Rural Development Department, Agartala.

2. The District Programme Co-ordinator,

(D.M & Collector), Dhalai District, Jawaharnagar,
Tripura.

By Advocate :

Mr. B. Dutta, State counsel.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE U. B. SAHA

Date of hearing &
Judgment & Order : **25th June, 2015.**

Whether fit for reporting :

Yes	No
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JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

Both the petitions are being disposed of by a common judgment since the issues involved in both the cases are identical.

[2] Briefly stated the facts of the case are that the petitioners were employed as Gram Rozgar Sevaks(GRS) pursuant to an advertisement issued on 7th October, 2006. It is not disputed that this was a totally contractual employment which started on 07.10.2006 and the period of contract ended on 07.10.2008. It is also however not disputed that even after the period of termination of the contract the petitioners were permitted to continue. Thereafter on 22.09.2009 the petitioners were transferred from their original place of posting Dhanchandra Chow to Dabbari. On the date when the petitioners were transferred a memo was issued to the petitioners asking them to show cause why action should not be taken against them. The gist of the notice was that on inspection of the office records of muster rolls in Dhanchandra Para ADC village it was found that some payment was made under NREGA to certain persons who did not even exist in the village. However the petitioners continued to make entries in the muster roll and employment registers for payment even though the petitioners were aware of the fact that these entries related to illegal job cards.

[3] The petitioners filed reply and denied the allegations and stated that they had only been following the instructions of the senior Gram Rozgar Sevak, the Panchayat Secretary and the Chairman of Dhanchandra Para Village Committee. They denied the allegations that the payments were made to people who did not exist. Thereafter a memorandum was issued on 12.10.2009 wherein it has been found that the petitioners maintained some fake job cards and thus helped in misappropriation of government's funds and services of the petitioners were terminated vide order dated 12.10.2009.

[4] The petitioners by these writ petitions have challenged the said order of termination. We had called for the records of the case and in the records also other than the order of appointment and the order of termination there is no other record. Even a contractual employee is entitled to some hearing. Before the services of a contractual employee are terminated the authority authorized to terminate must take a conscious decision as to what is the fault committed by the contractual employee. In the present cases if we peruse the notice, it is absolutely vague. The allegations in the notice are as follows:

******* Whereas, on inspection of office records and muster rolls in Dhanchandra Para ADC village, it was found that some payment was made under NREGA in favour of certain persons who did not exist in the villages. However, the concerned GRS continue to make record in the muster roll and employment register for payment even though he was quite aware of the fact that these entries were related to illegal job cards.*****"**

The words used are that some payment was made under NREGA are in favour of certain persons who did not exist. The names of the allegedly fake persons are not even mentioned. The very minimum which is required in a notice is that allegations should be clear cut. We had hoped that at least in the

file some material would be there and if such material had been there we may have been persuaded to take a view in favour of the respondents. Neither in the file nor in the show cause notice, nor in the order of termination is there any clear cut finding that some persons who should have been named were not living in the village and payments had wrongly been made to them. When persons are not named, the details of the payments are not given, how can any person even file a reply to this memo.

[5] Therefore, we find that the orders of termination are wholly illegal. The same are accordingly set aside. The petitioners were contractual employees and, therefore, we cannot immediately direct their reinstatement. It is, however, made clear that if any Gram Rozgar Sevak who was in service at the time when the petitioners were terminated is still in service anywhere in the State of Tripura, the petitioners shall be reinstated in service with all consequential benefits. We again clarify that if any person who was employed either earlier or after the petitioners but before the termination of the petitioners is continuing in service as Gram Rozgar Sevak the State is bound to pay all the financial benefits to the petitioners also who shall be deemed to be in service for all intents and purpose. The financial benefits be paid latest by 30th November, 2015 failing which the State shall be liable to pay interest @ 12% per annum.

[6] The petitions are disposed of in the aforesaid terms. No order as to costs.

JUDGE

CHIEF JUSTICE

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