

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) NO.414 OF 2011

Smt. Indira Koloi,
wife of Sri Santi Kumar Debbarma,
resident of Sonacherra, P.O. Chhechua,
P.S. Ompinagar, District : South Tripura

..... Petitioner

– Vs –

1. The State of Tripura,
represented by the Secretary to the Govt. of Tripura,
Department of Social Welfare and Social Education,
P.O. Kunjaban, Agartala, West Tripura, PIN : 799006
2. The Director of Social Welfare and Social Education,
P.O. Agartala, Agartala, West Tripura, PIN : 79901
3. The Addl. Director of Social Welfare and Social Education,
P.O. Agartala, Agartala, West Tripura, PIN : 799001
4. The Child Development Project Officer,
Integrated Child Development Scheme Project,
P.O. Ompi, P.S. Ompinagar, District : South Tripura

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. S. Deb, Sr. Advocate.
Mr. S.B. Debnath, Advocate.

For the respondents : Mr. D.C. Nath, Advocate.

Date of hearing & order : 09.06.2015

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. S. Deb, learned senior counsel, assisted by Mr. S.B. Debnath, learned counsel appearing for the petitioner as well as Mr. D.C. Nath, learned state counsel appearing for the respondents.

2. By means of this petition, the Memorandum under No.F.1(28)/CDPO/OMPI/ICDS/2011/814-819 dated 11.08.2011, Annexure-P/3 to the writ petition, has been challenged by the petitioner. By that memorandum, the petitioner has been terminated from her service as an Anganwadi worker w.e.f. 12.08.2011.

3. The undisputed fact that surfaces from the records is that the petitioner was engaged as the Anganwadi worker by the Memorandum under No.F.3(16)-DSWE/ESTT/88(V-14) dated 04.03.1991, Annexure-P/1 to the writ petition, and she was posted in the Anganwadi centre at Gamenjoy Reang Para. As there was some complaints against her as regards discharge of her assigned duties, a show cause notice was issued under No.F.1(28)/CDPO/OMPI/Estt-ICDS/2009/412(12) dated 02.06.2011, Annexure-P/2 to the writ petition, asking her to submit the reply within seven days from the date of receipt. The notice was issued by the Child

Development Project Officer, Ompi ICDS Project, South Tripura.

The complaint against the petitioner was as under :

“Irregular in duty and working report not properly submitted and signed by chairperson.”

4. Thereafter, by the said memorandum dated 11.08.2011 the service of the petitioner was terminated. According to the respondent No.2, the memorandum dated 11.08.2011 was issued pursuant to the memorandum No.1(1-21)-ICDS/SWE/2010 dated 05.08.2011 issued by the Director, Social Welfare and Social Education, Tripura, Agartala.

5. Though the petitioner has stated in para 4 of the writ petition that she had submitted her reply delineating all the facts and disputing the allegations, but no copy of the said reply has been annexed with this petition nor did she give any explanation why she could not annex the copy of the said reply with the writ petition. The petitioner has asserted that she had been regularly attending the place of work and rendering her service. She has further claimed that from the report of the Gaon Panchayat, it would be apparent that she had been rendering her service satisfactorily as the Anganwadi worker. In addition thereto, she has stated as under :

“To be specific, your humble petitioner states that in the months of April, 2010 your humble petitioner was present on all the days; in the month of May,

2010, she was present on all the days; in the month of June, 2010, she was absent for three days viz. on 11th, 12th and 14th; in the month of August, 2010, she was present except on 10th, 11th, 25th, 26th and 27th; in the month of September, 2010, she was present on all the days except on 17th; in the month of October, 2010, she was present on all the days except on 23rd. Similarly she was also present on all the days in November, 2010; in the month of December, 2010 she was present on all the days except on 11th; in January, 2011, your humble petitioner was present on all the days; in the month of February, 2011, she was present on all the days, in March, 2011, she was present on all the days except on 18th, 21st and 22nd while for the month of April, 2011 she was present on all the days except on 4th and 9th. In the month of May, 2011, she was present on all the days except on 30th and 31st; in the month of June, your humble petitioner was absent only on 6th, 13th and 18th while in the month of July, 2011, she was present on all the days except on 7th, 9th and 11th and in the month of August, 2011 till your humble petitioner was served with the notice of termination she was present till 20th except on 4th, 5th and 6^h. The said attendance of your humble petitioner has also been verified by the competent authority. The said Attendance Register is in the possession and custody of the respondents and the respondents may be directed to produce the same at the time of hearing."

6. By filing the counter-affidavit, in order to rebut the allegations of the writ petitioner, the respondents have stated that in response to the show cause notice dated 02.06.2011, the petitioner did not submit any reply or representation denying the charges brought against her. Her honorariums for the months of June-July, 2011 have not been disbursed for such deliberate irregular attendance. The respondents have also annexed with their counter-affidavit the complaint made by Smt. Ratnati Reang,

the former Chairman of Ekjancherra ADC village, made to the CDPO, Ompi mentioning that the petitioner made fake rubber stamp (seal) in the name of said Smt. Ratnati Reang and used to create and sign the monthly working reports in the name of Smt. Ratnati Reang. That apart, one letter dated 04.08.2011 issued by the Chief Executive Officer of the Tripura Tribal Areas Autonomous District Council (TTAADC) has been annexed. From the said letter, it appears that the petitioner was highly irregular in attending her service and causing dislocation in the basic services of the ICDS. Apart that, a resolution taken by the villagers of the Gamanjoy Reang Para against the petitioner, has been annexed as Annexure-R/5 to the counter affidavit. In addition thereto, a resolution adopted by the ADC village committee has also been annexed as Annexure-R/6 to the counter affidavit. The copy of the inspection report of the Sector Supervisor has also been made part of the record. It appears that all the materials have been taken into consideration while issuing the impugned order of termination. But it could not be gathered from the records that those materials were referred or supplied to the petitioner for her response.

7. In the considered opinion of this court there has been a flagrant violation of the principles of natural justice as all those materials were withheld from the petitioner and a very cryptic description of the complaint was communicated to her for her response. Even whether the petitioner did or did not make any

response, this court is of the further view that it is the fundamental onus of the respondents to supply all the materials, viz. the complaints received from the various persons and to afford reasonable opportunity for furnishing response. The crux of the allegations incorporated in the show cause notice dated 02.06.2011 is not only inadequate but those even do not make out any sense and as such this court has no other alternative but to interfere with the impugned termination order dated 11.08.2011 and consequently, the same is set aside and quashed. The petitioner be deemed in service. However, the respondents shall be at liberty to issue a fresh show cause notice, supplying the petitioner all the materials they intend to rely on for taking any action against the petitioner and after affording the petitioner all opportunities to represent, the competent authority may take the appropriate decision. Till then, the respondents shall not be under obligation to release any financial benefit to the petitioner. But, if it is found that the petitioner is not liable to be terminated from the service or to face any other penal consequences, all her wages as an Anganwadi worker since 12.08.2011 or of the working period for which her wages are withheld, be released without delay. If the petitioner is aggrieved by any decision taken by the respondents, she shall be at liberty to approach this court for appropriate redress. If no further action is taken by the respondents or the competent authority within a period of 6 (six) months from today,

the respondents shall release all her wages since 12.08.2011 alongwith the wage for the working period which has been withheld.

8. With this observation and direction, this petition stands allowed to extent as indicated. No order as to costs.

JUDGE

ROY