

C. f. 1002

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IN THE HIGH COURT OF CHHATTISGARHAT: BILASPURW. P. (S) No. 6052 OF 2011

PETITIONER: ✓ Smt. Santoshi Bai Sahu, aged 27 years, daughter of
Shri Laluram Sahu, resident of village Dirmadabri,
tahsil Pandariya, district Kabirdham (Chhattisgarh).

VERSUSRESPONDENTS:

- ✓ 1. The Chief Executive Officer, Janpad Panchayat,
Pandariya, district Kabirdham (C.G.)
- ✓ 2. The Project Officer, Integrated Child Development
Scheme/Project, Pandariya, district Kabirdham
(C.G.)

150/2011
Shri Laluram Sahu
150/2011

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA.

PETITION

RESPONSE

Additional Collector, Kabirdham,
District Kawardha (C.G.)
The Commissioner, Raipur Division,
Raipur (C.G.)"

"3."
R. No. 446150/2017
Shankar Pandey
Amended as per
22/11/2014
4.
Amended as per
22/11/2014
Amended as per
22/11/2014



Amended as per
22/11/2014

66

49/12/15

HIGH COURT OF CHHATTISGARH AT BILASPUR

SB: HON'BLE SHRI PRITINKER DIWAKER, J

WRIT PETITION (S) No. 6052 of 2011

PETITIONER

Smt. Santoshi Bai Sahu

VERSUS

RESPONDENTS

Chief Executive Officer and others

Shri Amrito Das counsel for the petitioner.

Shri Sushil Dubey counsel for respondent No. 1.

Shri Adil Minhaj PL for respondent No.2.

ORDER

(03.02.2015)

This petition has been filed challenging the action of respondent No.1 terminating the services of the petitioner who was working as Angan Wadi Worker.

2. Facts of the case in brief are that on 22.10.2007 the petitioner was appointed as Angan Wadi Worker by Chief Executive Officer, Janpad Panchayat, Pandaria and immediately thereafter she joined on the said post. According to the petitioner, as she suffered from jaundice, she could not attend her duties from 15.2.2010 to 3.5.2010 and a medical certificate to this effect issued by the Medical Officer has been filed by her as Annexure P-2. After recovery from her illness, when the petitioner went to the Angan Wadi Center to join her duties, order dated 9.4.2010 was handed down to her terminating her services

on account of unauthorized absence. Said termination order was challenged by her before the Collector by way of appeal which too was dismissed on 6.7.2010 vide Annexure P-4 holding that the order of the Chief Executive Officer terminating the services of the petitioner was in accordance with law and no interference therewith was called for. Order passed by the collector was assailed by the petitioner in revision before the Divisional Commissioner Raipur but the same also came to be dismissed vide order dated 30.7.2011 affirming the order of the Collector dated 6.7.2010.

3. Counsel for the petitioner submits that the order impugned dated 9.4.2010 has been passed without affording an opportunity of hearing to the petitioner and in complete violation of the scheme relating to the appointment of Angan Wadi Workers and Angan Wadi Assistants. He submits that as per clause 13.1 of the scheme a notice was required to be issued to the petitioner seeking reply by giving her 15 days time for the said purpose and in the event of such reply being filed by her, the Project Development Officer was under the obligation to send the proposal to the Janpad Panchayat and in turn it was required to be placed before the selection committee which had appointed the petitioner and then if the selection committee came to the conclusion that any action was to be taken against the petitioner then the Chief Executive Officer could have passed the order. It is argued that clause 13.1 of the scheme is applicable only in the case of embezzlement and serious misconduct whereas in other cases petitioner should have been given a warning on two occasions and if she still continued with the misconduct, the order could have been passed by following the

above procedure. It is argued that in the present case though the allegation was not of serious nature but treating the same to be like that, the order of termination has been passed without following the due procedure. He submits that after quashing the order impugned Annexure P-3 the matter may be remanded to the Project Development Officer and if he so desires may take action against the petitioner in accordance with law.

4. Counsel for the respondents have no objection to the proposition made by counsel for the petitioner. They however submit that as on the inspection of the Sector Supervisor the petitioner was found un-authorizedly absent from duty from 15.02.2010 to 3.5.2010, her services have rightly been terminated. They further submit that even the show cause notice was issued to the petitioner but no reply was submitted by her to the same. To this argument of the counsel for the respondents it has been argued by the counsel for the petitioner that the such show cause notice said to have been issued to the petitioner was never received by her.

5. From the documents on record it is apparent that the provisions of the scheme have not been followed by the respondents before passing the order impugned terminating the services of the petitioner. Mere issuance of show cause notice to the petitioner is not enough on the part of the respondents to pass the order like one impugned herein. It is accordingly quashed. Consequently, the orders passed by the Collector and the Commissioner in appeal and revision respectively are also quashed. Respondents are directed to allow the

petitioner to perform her duties as Angan Wadi Worker. However, if the respondents so desire may take appropriate action against the petitioner in accordance with law keeping in mind the provisions of the scheme. In the facts and circumstances of the case the petitioner would not be entitled for any back wages.

Sd/-
Pritinker Diwaker
Judge