

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 3303 of 2015**

1. Sangeeta Sone D/o Shri Mangal Ram, Aged About 27 Years R/o Bilaspur Chowk, Near R. K. Petrol Pump, Manipur, Police Station Manipur, District Ambikapur-Surguja, (Chhattisgarh)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through Department Of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
2. Surguja University, Through O S D (Establishment) Ambikapur, District Ambikapur- Surguja (Chhattisgarh)
3. Government Engineering College, Through Its Principal Lakhanpur, District Ambikapur- Surguja, (Chhattisgarh)
4. Dr. R. N. Khare, Principal, Government Engineering College, District Ambikapur-Surguja, (Chhattisgarh)

**---- Respondent**

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| For Petitioner       | Shri Sunil Otwani, Advocate       |
| For Respondent/State | Shri P.K. Bhaduri, Govt. Advocate |
| For Respondent No.4  | Shri Neeraj Choubey, Advocate     |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**C A V Order**

**15/09/2015**

1. In this petition under Article 226 of the Constitution of India the petitioner has assailed the legality and validity of the

order dated 22-8-2015 passed by the respondent University terminating the services of the petitioner, who is a daily wage Data Entry Operator, on the ground that her work not being satisfactory, the University no longer requires her services.

2. The petitioner was appointed as daily wage Data Entry Operator in the establishment of the respondent University on 3-1-2011 for a period of 89 days. On completion of 89 days of service the petitioner's appointment was continued for succeeding 89 days after giving break-in-service. She continued in the said capacity till the impugned order has been passed on 22-8-2015.
3. Learned counsel for the petitioner would submit that the impugned order is stigmatic inasmuch as an enquiry was conducted against the petitioner, but she was not allowed to participate and thereafter, her service has been terminated on ground of non-satisfactory of service. He would submit that the impugned order being a result of an enquiry, it casts stigma and the petitioner's right of *audi alteram partem* has been violated.
4. It is to be seen that the petitioner was appointed as daily wage Data Entry Operator. Although in para 8.2 of the

petition it is mentioned that the advertisement was issued, however, copy of any such advertisement or recruitment process has not been annexed. The order of appointment also does not indicate that the appointment was made pursuant to any recommendation by the selection committee.

5. Be that as it may, the petitioner's status is to be governed under the terms of the appointment wherein she has been appointed on daily wages basis of Collector's rate.
6. It is settled law that if the appointment was on daily wages basis the same would come to an end when it is discontinued. (See: **Secretary, State of Karnataka and Others v. Umadevi (3) and Others**<sup>1</sup> pg.36 para 43).
7. Petitioner's counsel has argued that the impugned order has been passed on 22-8-2015, however, it has been made effective from 11-7-2015, therefore, since the law is settled that retrospective order of termination is not valid in law, the impugned order deserves to be set aside.
8. In the considered opinion of this Court, the petitioner being a daily wager having no right to hold the post, any defect in

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<sup>1</sup> (2006) 4 SCC 1

making the impugned order effective from the retrospective date would not improve her status and at best the petitioner would be entitled to salary for the period she has actually performed duties. If the salary has not been paid to the petitioner till 22-8-2015 she would be at liberty to move a representation only for this relief, however, it will not invalidate the impugned order.

9. As a result, the writ petition is dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Gowri