

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1101/2014.

Ranjana Bhojraj Nimgade

VERSUS

State of Maharashtra and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
AND A.P. BHANGALE, JJ.

DATE : MARCH 03, 2015.

Heard Shri A.B. Moon, learned Counsel for the petitioner, Shri A.S. Fulzele, learned Addl. G.P. for respondent nos. 1 to 3 and Shri N.B. Bargat, learned Counsel for respondent no.4.

As petitioner was earlier working as Anganwadi Madatnis, as per prevalent policy, she came to be appointed as Anganwadi Sevika, vide order dated

30.05.2013. The said appointment was in purely temporary capacity. That appointment has been discontinued by withdrawing the said order on 01.06.2013. However, withdrawal is alleged to be after petitioner joined and on account of misappropriation or misuse of take home ration. Petitioner has produced before this Court report by the CDPO about it. After withdrawal of said appointment, respondent no.4 has been appointed as Anganwadi Sevika on temporary basis by order dated 23.12.2013.

Shri Moon, learned counsel submits that the petitioner has been punished without extending any opportunity, and though respondent no.4 could not have been appointed, illegally respondent nos. 1 to 3 have placed her as Anganwadi Sevika. He contends that there are several complaints about working of respondent no.4.

Shri Bargat, learned counsel appearing for respondent no.4 disputes the contentions raised by the petitioner. He points out that the petitioner was appointed on purely temporary capacity. For valid

reasons the said appointment is recalled. He submits that respondent no.4 is working satisfactorily.

Learned A.G.P. is relying upon reply affidavit. He points out that claim was made by the petitioner to the post of Anganwadi Sevika as a senior most Anganwadi helper in Ward No.26. Accordingly a decision to promote her was taken. The said decision was taken because of the belief that Centre No.87 falls in Ward no.26 as per Government Resolution dated 15.09.2011. It was informed that the petitioner was working in Centre no.96 which falls in Ward no.25, and vacancy had arisen at Centre no. 87 in Ward No.26. Hence, after detailed enquiry and upon verification, promotion given to petitioner was found incorrect and contrary to the government resolution dated 15.09.2011. Hence, it has been withdrawn.

Thus, the order of withdrawal dated 01.06.2013 is sought to be justified by the government on the ground that earlier order dated 30.05.2013, was issued under erroneous presumption. Respondent no.4 is supporting the case of other respondents.

A rejoinder has been filed by the petitioner, wherein effort is to demonstrate that the relevant area norm to be applied is of 'Prabhag' and not 'Ward'.

In this situation, we find that the appointment given to petitioner could not have been withdrawn without extending her necessary opportunity. Petitioner has attempted to demonstrate before this Court that after receipt of the order dated 30.05.2013, she had reported at her centre and joined duties. We do not wish to go into any disputed facts and, direct respondent no.3 to extend necessary opportunity to the petitioner, as also respondent no.4 and find out whether initial appointment given to the petitioner on 30.05.2013 is in accordance with law. For said purpose, we direct the parties to appear before respondent no.3 on 23.03.2015. Necessary decision shall be taken by respondent no.3 within next four weeks.

Till then parties shall maintain status-quo as on today.

Thus, leaving all rival contentions open,
Writ Petition is, partly allowed and disposed of. No
costs.

JUDGE

JUDGE

Rgd