

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 132 of 2016**

Smt. Rambha Rathore, Wife of Shri Mahaveer Rathore, Aged about 44 years,
Resident of Khokhra Tahsil Janjgir, District Janjgir-Champa, (Chhattisgarh)

---- Appellant**Versus**

1. Additional Commissioner, Bilaspur Division, Bilaspur, District Bilaspur Chhattisgarh.
2. Collector, Janjgir-Champa, District Janjgir-Champa, Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat, Nawagarh, District Janjgir-Champa, Chhattisgarh.
4. Woman and Child Development Officer, Janpad Panchayat, Nawagarh, District Janjgir-Champa, Chhattisgarh.

---- Respondents

For Appellant : Shri K.K.Dewangan, Advocate.
For Respondent/State : Shri R.K.Gupta, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****16/03/2016**

1. IA No. 1 of 2016 has been filed to condone delay of 254 days in preferring the appeal.
2. We have heard Learned Counsel for the parties. The application to condone this long and inordinate delay does not plead any sufficient cause. But, we proceed to condone the delay as perhaps the Appellant was unable to pursue matters in appeal for certain reasons until she got assistance from the High Court Legal Services Committee. IA No. 1 of 2016 is allowed.
3. The present appeal arises from order dated 29.4.2015 dismissing Writ Petition (227) No. 320 of 2015. The Learned Single Judge declined to interfere with the order of Janpad Panchayat dated 27.6.2013 removing the Appellant from the post of Anganbadi Worker duly affirmed in appeal and revision by the Collector, Janjgir-Champa and the Additional Commissioner, Bilaspur Division, Bilaspur.

4. Learned Counsel appearing on behalf of the Appellant through the High Court Legal Services Committee contended that the Appellant was appointed in 1998. Dismissal after such long years was not justified. The Appellant had furnished explanation for closure of the centre. The punishment imposed is grossly disproportionate to the charge. The authorities may therefore be directed to reconsider the quantum of punishment.

5. Learned Counsel for the State opposing the appeal submitted that the order of the Learned Single Judge is reasoned. The Appellant had failed to submit any explanation despite show cause notice issued more than once. Concurrent findings of facts by the three authorities may not be interfered with in exercise of discretionary jurisdiction. No illegality much less any infirmity in the decision making process have been raised for consideration.

6. We have considered the submissions on behalf of the parties.

7. The Anganbadi centre of the Appellant was inspected on four occasions. On each occasion it was found closed. Three notices were issued to Appellant seeking an explanation not only for her absence but also closure of the centre itself. She failed to submit any reply and her honorarium was also stopped. The Appellant preferred an appeal before the Collector and revision before the Additional Commissioner, both of whom have declined to interfere with the order for removal. The Learned Single Judge held that unjustified closure of Anganbadi Centre itself amounted to irregularity and the element of misconduct was built in it. Anganbadi Workers are appointed by the Government for dissemination of a welfare scheme framed by the Government for the benefit of pregnant women and children. The persons appointed under this scheme are not Government servants. The relationship between them and the Government is one of principal and agent. The standards which would apply with regard to appointment and termination of Government servants will not apply to persons appointed as agents of the Government for dissemination of a Government welfare schemes. But, because the principal happens to be the State

Government, the only basic minimum requirement of compliance with Article 14 of the Constitution in dealing with the agent, will have to be complied. If an Anganbadi Worker is removed arbitrarily for no valid reason or in violation of principles of natural justice, in those limited circumstances judicial review would step in but not otherwise.

8. In (2007) 11 SCC 681 (State of Karnataka v. Ammerbai) it has been held that Anganbadi Workers do not hold a civil post. A Division Bench of Patna High Court in (2004) 2 PLJR 833 (Smt. Sajjan Devi v. State of Bihar) has held that the Court will only examine if principles of natural justice have been followed or not before removing an Anganbadi Worker. Once this procedure has been followed and due opportunity has been granted of defence before removal, the question of the Court interfering either against removal or the quantum of punishment as available to Government servants will simply not apply.

9. We concur with the conclusion of the Learned Single Judge that in the given nature of the appointment of the Appellant as an agent for dissemination of a welfare scheme, the closure of the centre without valid justification itself amounts to an irregularity and may have imputations of misconduct. The relationship between agent and principal is different from that of a master and servant. The Court would not be justified in thrusting an agent upon an unwilling principal. The Appellant was given three notices which she failed to respond. We therefore find no reason to interfere with the order under appeal.

10. Needless to state that if the Appellant applies in response to any fresh advertisement, she is required to be considered on its own merits without being prejudiced by the present order.

11. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE